



## MontGuide

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# Montana's End-of-Life Registry

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This MontGuide answers commonly asked questions about the Montana End-of-Life Registry, Living Wills, Comfort One and POLST.

## Introduction

The Montana Legislature authorized the Attorney General's Office to establish and maintain an End-of-Life Registry website for Montana citizens. The goal was to provide a place for citizens to securely store their *advance directives* online and to give authorized health care providers immediate access to them. 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 how you would want to be treated if you were seriously ill and unable to make decisions for yourself. It provides instructions about what you would want done or not done about life-sustaining treatment and other health care issues. You may order that your life be prolonged as long as possible. Or, you may order that your attending physician withhold or withdraw treatment that would only prolong 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 do I file an advance directive?

First, complete an advance directive that meets the requirements of Montana law, found in Section 50-9-103 of the Montana Code Annotated. A form that meets these requirements is available from the End-of-Life Registry at [www.endoflife.mt.gov](http://www.endoflife.mt.gov).

MSU Extension also has a declaration (living will) form that is included in the MontGuide, *Montana Rights of the Terminally Ill Act* (MT199202HR). This publication is available through your local Extension

agent or online at [www.montana.edu/estateplanning](http://www.montana.edu/estateplanning). Scroll down to Montana Rights of Terminally Ill Act.

A POLST form is available from your physician or other healthcare provider or you can download a copy online at [www.polst.mt.gov](http://www.polst.mt.gov).

Second, complete the Montana End-of-Life Consumer Registration Agreement. The form is available from the End-of-Life Registry at [www.endoflife.mt.gov](http://www.endoflife.mt.gov).

Once you have completed your advance directive and Consumer Registration Agreement, make a copy of each so you will have a record of your submission. Then send the original forms to:

Montana End-of-Life Registry  
Office of Consumer Protection and Victim Services  
P.O. Box 201410  
Helena, MT 59620-1410

## What are the legal requirements for an advance directive?

Regardless of the format, Montana law requires that a person (called a *declarant* under the Montana Rights of the Terminally Ill Act) executing an advance directive is at least 18 years of age. Two witnesses must observe your signing of the form and then sign the form themselves. Your signature and those of the two witnesses do not have to be notarized.

You may have another individual sign for you if you are unable to sign the form yourself.

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

## Who can witness my advance directive?

Friends, acquaintances and business associates can serve as witnesses during the signing of your advance directive. While Montana law allows family members to be witnesses, you may choose not to have relatives as witnesses to avoid questions regarding impartiality.

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

## What if I change my mind about my advance directive?

You can always make changes to your advance directive stored in the registry. Simply complete a new advance directive and a new Consumer Registration Agreement and mail both *new* forms to the Office of Consumer Protection. Indicate on the Consumer Registration Agreement that you wish to replace your existing directive with a new one. You cannot file or change your advance directive online.

## When does my advance directive become effective?

Your advance directive becomes operative only when the attending *health care provider* determines that you are in a terminal condition and can no longer participate in decisions regarding your medical treatment. Your advance directive will not be used provided you are able to express your own decisions on whether to accept or refuse medical treatment. You may make decisions regarding life-sustaining treatment for yourself as long as you are able to do so.

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

Comfort One gives you the opportunity and the right to limit the care you receive in a medical emergency only. Comfort One is designed for persons in an emergency situation outside the hospital. It provides immediate identification to rescuers that you do not want to be resuscitated. You will only be provided comfort care and be allowed to die in the natural course of your illness. Enrollment is limited to those who have a terminal illness or those whose physician has ordered “do not resuscitate.” By displaying a Comfort One form, wallet card or bracelet (these are the only credentials approved by the Montana Department of Health & Environmental Sciences) to emergency medical service personnel, you can avoid all efforts of resuscitation. Unless you have one of these Comfort One credentials, EMT personnel will attempt to resuscitate you. Comfort One is being replaced by POLST.

## What is the difference between Comfort One and POLST?

POLST is the Provider Orders for Life-Sustaining Treatment (POLST) program in Montana. The POLST form helps assure that patient wishes to have or limit specific medical treatments are respected near the end of life by all providers. The POLST form ([www.polst.mt.gov](http://www.polst.mt.gov)) is an official documentation of medical orders on a standardized form coupled with a promise by health care professionals to honor those wishes. Comfort One is for EMT personnel only and they will still honor your wishes. But gradually POLST will replace Comfort One because the form applies to all health care providers.

## Who are 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.

## What is the cost of filing an advance directive?

It's FREE. The Montana End-of-Life Registry stores your advance directive online without charge to encourage every Montanan to participate.

## Who can access my advance directive?

You can specify whom you want to have access to your advance directive in Section B of the Consumer Registration Agreement. Section B offers two levels of privacy: standard or higher.

- *Standard Privacy* allows you to access your advance directive anytime. Health care providers who have registered with the Attorney General's Office can also access your advance directive 24 hours a day. Anyone with your Social Security number, birth date and mother's maiden name, or with your name and access code can also access your advance directive online under this option.
- *Higher Privacy* allows access online only by the person who filed the advance directive, registered health care providers or anyone with your name and access code.

## How will I know if my advance directive has been entered in the End-of-Life Registry?

Within three weeks of receiving your advance directive the Office of Consumer Protection will send you a letter indicating that your advance directive has been entered in the Montana End-of-Life Registry. The letter will also confirm your identifying information. You also will receive:

- A wallet card containing the access code to check your advance directive through the online Montana End-of-Life Registry service.
- Four labels to place on the back of your driver's license, health insurance card, automobile insurance card, or other important locations.

### **What if my advance directive is rejected?**

If the Office of Consumer Protection determines that your advance directive does not meet Montana's legal requirements, your form and the Consumer Registration Agreement will be returned to you with a letter indicating what additional information is needed.

### **Who should know that I have an advance directive?**

Provide a copy of your advance directive to your physician or other health care providers. These health care professionals are required to make your advance directives a part of your medical record and follow its provisions.

If you have designated another individual (termed a *designee*) to make decisions for you governing the withholding or withdrawal of life-sustaining treatment, provide your designee with a copy of your advance directive. When you name a person as your designee, the attending physician or other health care provider is required to follow the designee's instructions regarding end-of-life care.

Let your family members know you have an advance directive and encourage family members to place their advance directives in the Montana End-of-Life Registry.

### **Who can I contact for further information about the Montana End-of-Life Registry?**

Staff of the Montana Attorney General's Office and the Office of Consumer Protection cannot provide legal advice about advance directives or provide legal services such as writing an advance directive for you. However, they can answer questions you may have about the registry. You may contact the registry staff via e-mail at [endofliferegistry@mt.gov](mailto:endofliferegistry@mt.gov) or call the registry's toll-free number, 1-866-675-3314, 24 hours a day.

### **Who should I ask about advance health care directives?**

Your doctor, attorney or others who specialize in end-of-life care issues can answer your questions about advance directives. Further information is available online from a number of government and non-profit organizations such as:

#### **Aging with Dignity**

P.O. Box 1661  
Tallahassee, FL 32302-1661  
Phone: 850-681-2010  
Fax: 850-681-2481  
E-mail: [fivewishes@agingwithdignity.org](mailto:fivewishes@agingwithdignity.org)  
<https://agingwithdignity.org>

#### **Montana Hospital Association (MHA)**

2625 Winne Avenue  
Helena, MT 59601  
Phone: 406-442-1911  
Fax: 406-443-3894  
[www.mtha.org](http://www.mtha.org)

#### **Compassion and Choices**

101 SW Madison Street, Unit 8009  
Portland, OR 97207  
Phone: 800-247-7421  
[www.compassionandchoices.org](http://www.compassionandchoices.org)

#### **National Hospice and Palliative Care Organization**

1731 King Street, Suite 100  
Alexandria, VA 22314  
Phone: 703-837-1500  
Fax: 703-837-1233  
[www.nhpco.org](http://www.nhpco.org)

#### **Senior & Long-Term Care Division**

1100 N. Last Chance Gulch, 4th Floor  
Helena, MT 59601  
Phone: 406-444-5622  
[www.dphhs.mt.gov/sltc](http://www.dphhs.mt.gov/sltc)

#### **Montana Board of Medical Examiners**

Department of Labor and Industry  
P.O. Box 200513, 301 South Park  
Helena, MT 59620-0513  
Phone: 406-841-2360  
Fax: 406-841-2305  
E-mail: [dlibsmed@mt.gov](mailto:dlibsmed@mt.gov)

### **Summary**

Montanans can securely store their advance directives online. An advance directive provides instructions about your health care in the event you are unable to make these decisions yourself. The End-of-Life Registry is free to Montanans. Immediate access can be provided to authorized health care providers and family members. You can change your advance directive any time you choose, however, you cannot file or change your advance directive online.

## Disclaimer

The material appearing in this fact sheet is presented for informational purposes only. The objective is to help you develop an understanding of the Montana End-of-Life Registry. The contents should not be considered as legal advice on advance directives or be used as such. For legal information specific to a health care (medical) power of attorney, contact an attorney.

## Acknowledgment

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- Elderly Assistance Committee, State Bar of Montana
- Businesses, Estates, Tax Trust and Real Property Section, State Bar of Montana
- Office of Consumer Protection, Attorney General's Office
- Montana Board of Medical Examiners

## Website downloads

- Consumer Registration Agreement: <https://media.dojmt.gov/wp-content/uploads/H-Consumer-Registration-Agreement.pdf>
- MSU Extension MontGuide *Montana Rights of Terminally Ill Act*: <http://msuextension.org/publications/FamilyFinancialManagement/MT199202HR.pdf>
- POLST form: [www.polst.mt.gov](http://www.polst.mt.gov)
- Declaration (Direct Physician to Withhold) and Declaration (Designating Another Individual to Make Decision) forms: [www.montana.edu/estateplanning](http://www.montana.edu/estateplanning) scroll down to Montana Rights of Terminally Ill Act
- Choices Advance Directive: [http://www.montana.edu/estateplanning/documents/ad\\_directive.pdf](http://www.montana.edu/estateplanning/documents/ad_directive.pdf)



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