

Montana Rights of the Terminally III



Revised 2005

**Marsha A. Goetting
Ph.D., CFP[®], CFCS**

**Professor & Extension Family
Economics Specialist
Department of Agricultural
Economics & Economics**

Montana Rights of the Terminally III



**MontGuide
199202**

Effective



- April 18, 1991
- **Prior Law Termed**
 - Living Will Act
 - Oct. 1, 1985

Montana law

- **Allows an individual who is of sound mind to write a declaration**



Declaration

- **Governs withholding or withdrawing of life-sustaining treatment when a person is in a terminal condition**



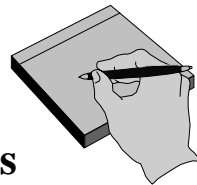
Declaration Requirements

- Age 18 or Older
- Sound Mind



Declaration

- Signed by
 - Declarant
 - Two witnesses



Declaration

- Does not have to be notarized



Becomes Operative

1. *Attending physician* determines that you are in a *terminal condition* and...



Becomes operative

2. You are no longer able to make decisions about the administration of *life-sustaining treatment*



Attending Physician

- Selected by or assigned to patient who has primary responsibility for the treatment & care of patient



Life-sustaining Treatment



- Any medical procedure or interventions which, when administered to a qualified patient, will serve only to prolong the dying process

Terminal Condition

- Incurable or irreversible condition that, without administration of life-sustaining treatment, will, in the opinion of the attending physician, result in death within a relatively short time.



Qualified patient

- Who has written declaration according to MT law and.....



Qualified patient

- Who has been determined by attending physician to be in terminal condition



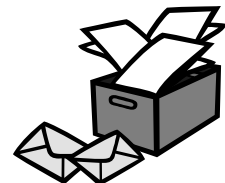
What if physician is not willing to comply?

- Inform you
- Transfer care to another physician



Provide copies to:

- Physician
- Family members



Giving others consent

- Designee can make decisions for you



Priority List if no Designee

- Spouse
 - Wife
 - Husband



Second in line

- Adult Child



Second in line

- More than one adult child
 - Majority of adult children who are reasonably available for consultation



Third in Line

- Parents of the declarant



Fourth in Line

- Adult brother or sister
- If more than one sibling, a majority of adult children who are reasonably available for consultation



Fifth in Line

- Nearest other adult relative by blood or adoption who is reasonably available for consultation



Change your mind?



- Revoke declaration
 - Verbally
 - In writing

Concealing Living Will

- Misdemeanor
 - Fine \$500
 - County Jail 1 yr



Life Insurance

- Withdrawal of life sustaining treatment does not constitute suicide or homicide



Example Declaration

- MontGuide 199202
 - Signature
 - Date
 - Witnesses' Signatures



Example Designee

- MontGuide 199202
 - Name of designee
 - Signature
 - Witnesses' Signatures



Summary: Declaration

- Allows you to terminate medical treatment should you have incurable & irreversible condition that would lead to death without treatment

Reviewers



- **Business, Estates, Tax, Trusts, & Real Property Law Section**
 - State Bar of Montana

Reviewers



- **MSU College of Nursing**
- **Montana Department of Public Health & Human Services**

Reviewers



- **Office on Aging**
- **Montana Nurses Association**

Reviewers

- **Montana Legislative Council**
 - Legal Services Division



Montana Rights of the Terminally Ill

Questions?



Revised 2005