

Frequently Asked Questions:

End of Life Issues

Following are several questions that have been asked regarding end of life issues. This is not meant to replace what is written in the Administrative Rules of the State of Montana or Montana Code Annotated. For more comprehensive information refer to MCA 72-5-321 and Montana Rights of the Terminally Ill Act, Title 50, chapters 9 & 10. Also refer to Rules 37.10.101 and 37.10.108.

ADVANCE DIRECTIVES:

1. What are Advance Directives?

- Advance Directives are instructions or communications **from** patients **to** their providers made in advance which identify their intended medical treatment decisions in the event they become incapable of making or communicating such decisions.

2. Can a parent or guardian fill out and sign an Advance Directive for an individual with intellectual disabilities (IID)?

- No, only the person for whom the Advance Directive is for (the declarant) can fill out and sign it. That person should be able to fully understand the meaning of what he/she is signing.

DNR (Do Not Resuscitate) and POLST (Provider Orders for Life Sustaining Treatment):

1. What is a DNR?

- DNR or Do Not Resuscitate is a legal order and means that in the event that the person's heart stops beating or they stop breathing, cardiopulmonary resuscitation (CPR) would not be done and the person would be allowed to die without intervention. A DNR order does not cover other wishes of the person such as comfort care and artificially administered nutrition which are addressed with a POLST.

2. What is a POLST?

- The POLST is designed to improve the quality of care people receive at the end of life. A POLST form is filled out and provides a standard set of medical orders for the person. It differs from a DNR in that it covers other issues such as receiving artificially administered nutrition,

transfer to hospitals, and comfort measures along with the Do Not Resuscitate order. Complete information regarding POLST can be found at polst.mt.gov.

3. Can a guardian or parent tell a physician to order a DNR or fill out a POLST for an individual with intellectual disabilities if no terminal illness is present?

- Only if the guardian petitions the court for this specific authority. A full guardianship does not allow the guardian to consent to the withholding or withdrawal of life sustaining treatment except in certain cases.
 - Per 72-5-321 MCA: Powers and duties of guardian of incapacitated person. (1) The powers and duties.....(2)(c) A full guardian may give any consents or approvals that may be necessary to enable the ward to receive medical or other professional care, counsel, treatment, or service. This subsection (2) (c) does not authorize a full guardian to consent to the withholding or withdrawal of life-sustaining treatment or to a do not resuscitate order if the full guardian does not have authority to consent pursuant to the Montana Rights of the Terminally Ill Act, Title 50, chapter 9, or to the do not resuscitate provisions of Title 50, chapter 10. A full guardian may petition the court for authority to consent to the withholding or withdrawal of life-sustaining treatment or to a do not resuscitate order. The court may not grant that authority if it conflicts with the ward's wishes to the extent that those wishes can be determined.

4. If a person is terminally ill, can a guardian (who is not a family member) consent to the withdrawal or withholding of life sustaining treatment?

- A family member has the authority to agree to withholding life sustaining treatment if a person is terminally ill.
- A guardian who has petitioned the court to obtain this specific (end of life) authority can sign a POLST if a terminal illness is documented.
- A person who has medical Power of Attorney (POA) can sign a POLST if a terminal illness is documented.

5. If a person living in a group home is diagnosed with a terminal illness, can a DNR order or POLST be put into place?

- Yes, anyone living in a group home can have a DNR order or POLST in place **if** there is a terminal illness diagnosis.

6. When can a DNR order or POLST be put into place?

- When someone is diagnosed with a terminal illness, a DNR order and POLST can be put into place by a physician with a family member. If there is no family member, the guardian may petition the courts to obtain the authority to consent to a DNR order or POLST.

7. If a person is terminally ill and has a POLST in place, should direct care staff perform CPR if the person stops breathing?

- **No**, CPR should not be performed. According to the Policy on the Provision of Care to Consumers with Emergency or Urgent Health Care Needs, (Urgent Care Policy Memo put out by DDP in 6/18/08 which is found on the DDP website under Policies and Procedures) “direct care staff should participate in the application of that order if the order is appropriate given the person’s current circumstances, the direct care staff have been given clear direction in the current medical order from a medical provider as to the withholding or withdrawal of resuscitative care, and the consumer does not express to them the desire to receive that care.”

8. Does a person with a terminal illness and a POLST in place need to be under the care of Hospice in order for direct care staff to follow the POLST?

- No, Hospice is not a necessary component for following a POLST when a person is terminally ill.

9. If a person is terminally ill with a POLST in place, should direct care staff call 911 if the person stops breathing or becomes unresponsive?

- If the person is enrolled in Hospice, then Hospice should be notified if the person stops breathing or becomes unresponsive.
- If the person is not enrolled in Hospice, 911 should be called since someone with the proper authority such as an Emergency Medical Technician (EMT) must pronounce death. The POLST form should be given to EMT’s immediately or else they are obligated to attempt resuscitation. If there is an Advance Directive in place but no POLST, the EMT’s are obligated to attempt resuscitation as they cannot make a determination about whether a terminal illness is present. Their job is to attend to the person until the “terminal” status of the patient can be determined by a doctor which usually occurs once the person has been transported to the Emergency Department.