

A Tour of State Advance Directive Registries

ABA Commission on Law and Aging National Advance Directive Registries

Health-care advance directive registries have been authorized by statute in a dozen states since Louisiana became the first state to establish a registry in 1991. The intended purpose of registries is to enable secure storage and quick access to one's advance directive by health care providers or by anyone given access to the registry by the maker of the advance directive. Registries may provide a convenient way for health-care providers ascertain patient wishes when patients cannot communicate their wishes and a directive is not already in the provider's immediate record. Studies of the population penetration and efficacy of advance directive registries are non-existent, so we really do not know the extent to which registries achieve their intended purpose. The summary below provides thumbnail descriptions of state advance directive registries, as of June, 2017, based solely on a review of state law and state registry web pages. Additional research is needed on the operational success of these registries. This review does NOT include registries exclusively for Physician Orders for Life-Sustaining Treatment (POLST) or its variations.

Private registries have also been in existence for at least two decades, but little is known about their operational outcomes, since such information is largely proprietary. States will sometime contract with a private registry to run the state registry, as is done in Washington, Vermont, and Oklahoma (in process). Private registries include:

- America Living Will Registry (www.alwr.com)
- DocuBank (<http://www.docubank.com>)
- U.S. Living Will Registry (www.uslwr.com)
- MedicAlert Foundation
(https://www.medicalert.org/join/advance-directives.htm?selected=MedicAlert+Membership_Advance+Directive)
- MyDirective. This is the first website (www.MyDirectives.com) that walks one through the process of creating an advance directive online, enables digital signatures, and registers it in their database which is accessible by health care providers.
- My Life Registry (www.mylifedirective.org)
- Though not a registry in the formal sense, the ABA Commission on Law and Aging offers a smart-phone app in called "My Health Care Wishes: An Advance Directive Personal Manager" that provides a way to store one's advance directive and related information on one's smartphone and on the phones of family members or friends. It enable instant transmission of the directive or related information to medical providers, so it serves essentially as a person-based registry. See www.MyHealthCareWishes.org.

Outlined below are states that administer legislatively authorized health care advance directive registries:

Arizona:

- **Administrator:** The Secretary of State
- **Website:** <http://www.azsos.gov/services/advance-directives>
- **Legislation:** A.R.S. § 36-3291, enacted 2004.
- **Eligible documents:** Health care advance directives only—i.e., Medical/Health Care Power of Attorney; Mental Health Care Power of Attorney, Living Will
- **How to file:** Must submit a copy by mail or in-person with a signed registration agreement. Registrant then receives by mail a registry wallet card and password and verification request. Once verification is returned by mail to the registry, the registered document becomes active.
- **Access:** Online by anyone with user ID and password.
- **Updates:** Registrant's responsibility. Process is same as initial registration.
- **Cost:** Free to registrants. The secretary of state may accept gifts, grants, donations, bequests and other forms of voluntary contributions to support, promote and maintain the registry.
- **Additional Notes:**

California:

- **Administrator:** The Secretary of State
- **Website:** <http://www.sos.ca.gov/registries/advance-health-care-directive-registry/>
- **Legislation:** Cal. Prob. Code §§ 4800, enacted 2000.
- **Eligible documents:** Health care advance directives only (i.e. Medical/Health care Power of Attorney and Living Wills).
- **How to file:** The form should be entered into the registry by mail along with the Registration of Written Advance Health Care Directive form which details information regarding the advance health care directive.
- **Access:** Secretary of State's office does not provide online advance directive registry access for residents. Successful registrants receive an Advance Health Care Directive Registry identification card indicating a successful deposit in the registry. The registry will be available, in a central information center, upon request from any health care provider, the public guardian, or the legal representative of the registrant and the need must be stated in the request.
- **Updates:** The same form can be used to amend information on a previously filed registration form. Registrants wishing to revoke their advance directive may do so by checking the applicable boxes when amending the document. Registrants must re-register in the Secretary of State's system when executing a subsequent advance directive.
- **Cost:** There is a \$10 filing fee for registrants. There is no fee for filing an amendment with the Secretary of State's office.

- **Additional Notes:**

Idaho:

- **Administrator:** The Secretary of State
- **Website:** <http://www.sos.idaho.gov/hcdr/index.html>
- **Legislation:** I.C. § 39-4515, enacted 2006.
- **Eligible Documents:** Health care Durable Power of Attorney and Living Wills or revocation of health care directives along with completing and submitting a required informational registration form. Idaho Physician Orders for Scope of Treatment (POST) forms are accepted as well. Although it's not required, notarization and witnesses for these documents are recommended.
- **How to File:** Mail or deliver the completed registry form along with the Health Care Directive to the Idaho Secretary of State's office, and must provide a return address for mailing purposes.
- **Access:** Successful registrants shall receive a wallet-sized registration card with an individual filing number and password for online access. The Secretary of State and health care providers are granted access to the registry for the purposes described in § 39-4515.
- **Updates:** The registrant or appointed authorized agents are responsible for updating new information to the online registry system.
- **Costs:** There is no fee for filing documents with the registry.
- **Additional Notes:** Neither the secretary of state nor the state of Idaho shall be subject to civil liability for any claims or demands arising out of the administration or operation of the health care directive registry.

Louisiana:

- **Administrator:** The Secretary of State
- **Website:** <http://www.sos.la.gov/OurOffice/EndOfLifeRegistries/Pages/default.aspx>
- **Legislation:** La. R.S. 40:1151.2, enacted 1991
- **Eligible Documents:** Living Will declarations
- **How to File:** Must send a written living will declaration by mail to the Louisiana Secretary of State. The Secretary of State's office accepts the original, a multiple original, or a certified copy of the declaration, either from the declaring person or his/her authorized attorney.
- **Access:** Registrant receives a laminated wallet ID card and an engraved "DNR" bracelet to indicate the living will is on file. Copies of declarations are also provided when requested by any attending physician or health care facility.
- **Updates:** Registrants or authorized appointees are responsible for any updates to the living will document.

- **Costs:** The filing fee for registrants is \$20. Filing a notice of revocation of a declaration is \$5 and a certified copy of a living will declaration is \$10.
- **Additional Notes:**

Maryland:

- **Administrator:** Department of Health and Mental Hygiene, Maryland Health Care Commission
- **Website:** <http://mhcc.maryland.gov/consumerinfo/longtermcare/AdvanceDirectiveInformation.aspx>
- **Legislation:** 2016 Maryland Laws Ch. 510 (H.B. 1385), enacted May 10, 2016
- **Eligible Documents:** Registrant may file health care advance directives such as a living will and durable power of attorney.
- **How to File:** May register online with the electronic advance directive service recognized by the Maryland Health Care Commission.
- **Access:** The registry will be an online database that can be accessed 24/7 by the registrant. The Secretary designates authorized access the registrants, registrant's designees, and representatives of the health care facility in which the registrant is receiving care.
- **Updates:** The registrant must notify the electronic advance directive service if there has been an amendment or revocation of the advance directive.
- **Costs:** There is no current filing fee.
- **Additional Notes:** The Maryland Advance Directive Registry was repealed. The Department of Health and Mental Hygiene and Maryland Health Care Commission established the Advance Directive Program to replace the registry and refers readers to sign-up using MyDirectives.com

Michigan:

- **Administrator:** The Department of Community Health
- **Website:** <https://www.mipeaceofmind.org/Default.aspx>
- **Legislation:** M.C.L.A. 400.105d(1)(g), enacted 2014.
- **Eligible Documents:** Registrants can file a health care advance directive in the form of a durable power of attorney for health care or an advance directive for mental health care.
- **How to File:** Those who wish to register can create an online account and submit their advance directives to Peace of Mind Registry. The Peace of Mind Registry is a free and voluntary statewide registry. This registry will maintain a copy of your advance directive and allows healthcare providers to access it if needed. Once registrants have successfully created an account they receive individual usernames and passwords to access their account for changes. Registrants can also mail their advance directives to Gift of Life Michigan. After successful registration log-in materials will be sent to the registrants.

- **Access:** Registrants receive, in the mail, a wallet sized card including an ID number and password to access their online registry account.
- **Updates:** Registrants are responsible for updating or changing their advance directive. Advance directives can be replaced with a new directive, at no cost to those who are registered.
- **Costs:** The registry is free for Michigan residents.
- **Additional Notes:** “Peace of Mind Registry” is developed and maintained through donations by Michigan’s Gift of Life Foundation.

Montana:

- **Administrator:** Office of the Attorney General
- **Website:** <https://dojmt.gov/consumer/end-of-life-registry/>
- **Legislation:** M.T. Code. Ann. 50-9-501, enacted 2005.
- **Eligible Documents:** Registrants can file health care advance directives such as living wills and health care medical powers of attorney.
- **How to File:** Must file advance directive to the registry by mail. Registrants cannot file or change their registered advance directives online. Montana requires a completed advance directive to be mailed along with an End-of-Life Consumer Registration Agreement. The Consumer Registration form allows residents to specify the advance directive’s level of privacy.
- **Access:** The registry is designed to be accessible by entering a name and access code on the website maintained by the attorney general or by use of a confidential password for attending physicians, nurses and department staff. There are two privacy options; the first is the standard option which allows access to the advance directive by the person who filed the directive, registered health care providers and anyone with the registrants SSN, birth date or mother’s maiden name and access code. The higher privacy option allows access only by the person who filed the directive, registered health care providers and anyone with the access code.
- **Updates:** Those who wish to change their advance directive will mail the Office of Consumer Protection the new advance directive and a Montana End-of-Life Consumer Registration Agreement indicating a wish to revise the current advance directive.
- **Costs:** There is no cost for the Montana registry.
- **Additional Notes:** The attorney general may accept gifts, grants, donations, bequests, and other types of voluntary contributions to help support, maintain, and promote the registry and revocation of the advance directive is free of charge.

Nevada:

- **Administrator:** The Secretary of State
- **Website:** <http://www.nvsos.gov/index.aspx?page=217>
- **Legislation:** N.V. Rev. St. 449.920, enacted 2007

- **Eligible Documents:** Any Nevada resident may file an advance directive in the form of a declaration governing the withholding or withdrawal of life-sustaining treatment, durable power of attorney for health care decisions, and DNR orders.
- **How to File:** A person who wishes to register an advance directive must submit through mail or facsimile to the lockbox of the Secretary of State a signed Registration Agreement along with a copy of the advance directive.
- **Access:** Once the registrant's advance directive has been registered, a wallet sized registration card will be given containing information for accessing the documents. N.V. Rev. Stat. 629.031 address organizations such as health care providers who are authorized to access an individual's lockbox which include any hospital, doctor, skilled nursing facility, nursing facility, home health care agency/provider, ambulatory surgery facility, hospice, or any authorized employee, contractor, agent, or any other person believed charged with giving effect to a registrant's advance directive or assisting in same.
- **Updates:** If the registrant wishes to make any changes to the advance directive, they should notify the lockbox by filling out an Authorization to Change form and provide the lockbox with a copy of the new or changed documents.
- **Costs:** There is no cost for storing an electronic advance directive in the Nevada registry.
- **Additional Notes:**

North Carolina:

- **Administrator:** The Secretary of State
- **Website:** <https://www.sosnc.gov/ahcdr/Message.aspx>
- **Legislation:** N.C.G.S.A. § 130A-465, enacted 2002.
- **Eligible Documents:** Any North Carolina resident may file an advance directive in the Secretary of State's registry. Documents for registration include an Advance Instruction for Mental Health Treatment, Advance Directive for Natural Death, Healthcare Power of Attorney, Declaration of an Anatomical Gift, and a registration form. Remove forms are also included for the withdrawal of directive information from the online database.
- **How to File:** To file an advance directive in North Carolina, resident must print a registration sheet and fill in the required information along with one cover sheet for each directive to be filed and mail to the attention of Advance Health Care Directive Registry.
- **Access:** Registrants who have successfully registered will receive a registry card that contains a file number and password to access the documents on-line. North Carolina registrants may make copies of the card and information in case another person needs to access their advance directive.
- **Updates:** Changes to the advance directive are the responsibility of the registrants and those authorized to access the registry. There is no fee for revocation or amendment to the registry.
- **Costs:** The fee for filing an advance directive with the Secretary of State is \$10.

- **Additional Notes:**

Oklahoma:

- **Administrator:** State Department of Health
- **Website:** https://www.ok.gov/health/Organization/Procurement/Procurement_-_2016_RFP_Advanced_Directive_Registry.html
- **Legislation:** 63 Okl.St. Ann. § 3102.1, enacted 2009, revised 2015.
- **Eligible Documents:** Oklahoma residents can register health care advance directives such as health care durable power of attorney, living wills and anatomical gifts.
- **How to File:** The form must be signed by the declarant and two witnesses to be successfully submitted for the registry. Guidelines on the filing procedure will be given when the registry is contracted.
- **Access:** The registry will be a secure online database that can be accessed by the registrant, the agents named in the advance directive, any person related to the registrant within the fourth degree of consanguinity or affinity, and a health care provider providing care to the registrant.
- **Updates:** The registrant is responsible for making any changes or updates to the advance directive. Revocation of the advance directive may be executed in whole or in part at any time.
- **Costs:** There is no current filing fee for registering an advance directive.
- **Additional Notes:**

Vermont:

- **Administrator:** The Department of Health
- **Website:** <http://www.healthvermont.gov/vadr/>
- **Legislation:** 18 V.S.A. § 9719, enacted 2005, revised 2011. Vt. Admin. Code 12-5-15:8
- **Eligible Documents:** Vermont residents can file advance directives with the Vermont Department of Health. Documents for the registry include health care durable power of attorney forms and living wills.
- **How to File:** Mail a copy of the completed advance directive form along with the registration agreement which gives the Department of Health permission to send a copy of the advance directive and emergency contact information to those authorized to access them.
- **Access:** After Vermont residents have registered their advance directives they will receive a confirmation letter, registration ID number, and instructions for accessing the registry to view and make changes, if necessary.
- **Updates:** Registrants are contacted annually for information verification or updates pertaining to their advance directives with the U.S. Living Wills Registry. Each registrant is responsible for changes and updates to their advance directives. To change the advance

directive the registrant should notify the registry in writing and mail or fax a newly executed form along with an Authorization to Change form.

- **Costs:** Registration is free for Vermont residents.
- **Additional Notes:** Vermont's Department of Health contracts with U.S. Living Wills Registry in Westfield, NJ, to provide the online registry system for residents. Each year the Vermont Advance Directive Registry will contact the registrant to confirm the information.

Virginia:

- **Administrator:** Department of Health, Connect Virginia Exchange
- **Legislation:** § 54.1-2994, enacted 2008.
- **Website:** <http://www.vdh.virginia.gov/Administration/AHCDR/index.htm>
- **Eligible Documents:** Documents for submission to the registry include living wills, anatomical gifts and health care powers of attorneys and must be notarized.
- **How to File:** Registration is done online through the Connect Virginia website. Completion of all required fields, acceptance of the terms and conditions, and the upload of documents satisfy the registry requirements.
- **Access:** Registrants have access to their registries along with anyone given the account information on the wallet ID card. Health care providers who are giving care to the registrant have access to the registry information as well.
- **Updates:** Registrants are responsible for the changes, updates or revocation that occurring on the database.
- **Costs:** Registration for filing an advance directive is free.
- **Additional Notes:**

Washington:

- **Administrator:** U.S. Living Wills Registry
- **Legislation:** RCWA§ 70.122.130, enacted 2006
- **Website:** <http://www.uslivingwillregistry.com/>
- **Eligible Documents:** Residents may submit health care advance directives in the form of health care durable powers of attorney, POLST and psychiatric advance directives along with a health care directive form.
- **How to File:** Once a registrant has completed the advance directive forms they can access the on-line store to purchase registration.
- **Access:** Registrants will receive notifications by mail with labels to attach to their drivers license and insurance card to indicate registration with the U.S. Living Wills Registry. The registrant and health care providers (hospitals, doctors, skilled nursing facilities, nursing facilities, home health agencies, providers or home health care, ambulatory surgery centers, and hospices) will have access to the on-line registry with confidentiality maintained at all times.

- **Updates:** Registrants are contacted annually for information verification or updates pertaining to their advance directives with the U.S. Living Wills Registry.
- **Costs:** There is no filing fee for registration.
- **Additional Notes:**