

ASSIST Resource Manual Walk-Through

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Resource Manual

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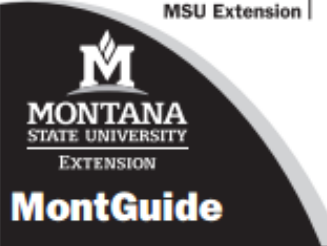
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A Self-Learning
Resource From
MSU Extension



MontGuide

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Power of Attorney

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This publication explains how to give another person authority to make financial decisions for you through a legal document known as a power of attorney. Information about the Montana Uniform Power of Attorney Act that was passed by the 2011 Montana Legislature is provided. Features of the new Statutory Power of Attorney form are explained.

THERE ARE MONTANANS WHO, BECAUSE OF THEIR circumstances, could benefit from having a Power of Attorney (POA). A POA is a document in which one person gives another person the power to conduct certain actions on his or her behalf. Examples of situations in which a written POA could be useful include:

- A single woman whose mother has Alzheimer's disease realizes she would need someone to make financial decisions if she develops the same condition.
- An adult with a cognitive or psychiatric disability who lives and works independently, but needs assistance with financial decisions.
- An elderly grandmother with macular degeneration wants her daughter to identify bills received in the mail and write checks for them because she can no longer see.
- A wife and husband who want to give each other authority to manage finances should either one should become incapacitated.

The purpose of this MontGuide is to provide information about the Montana Uniform Power of Attorney Act (effective October 1, 2011). The Act sets out provisions for the creation and use of a POA and provides safeguards that are designed to protect:

- The person who gives the power (**principal**);
- The person who is authorized to make decisions on behalf of the principal (**agent**); and,
- Those who are asked to rely on the POA authority, such as financial institutions, businesses and other entities.

The MontGuide also highlights some of the risks of a POA and explains features of two forms that were included in the Act:

- Montana Statutory Power of Attorney
- Agent's Certification as to the Validity of Power of Attorney and Agent's Authority

Statutory forms are available to download at the MSU Extension Estate Planning website under the Power of Attorney MontGuide at www.montana.edu/estateplanning.

Why have a POA?

With a POA a person (**principal**) can designate another person (**agent**) to act on the principal's behalf. The agent can sign legal documents when the principal is unavailable, when the principal prefers the convenience of having someone else sign, or when the principal becomes incapacitated.

Example A: Sara (**principal**), a homebound elderly mother who becomes agitated and stressed when confronted with financial decisions, wanted her daughter (**agent**) to have the authority to write checks to pay for groceries, medicine and other personal items for her. Sara signed a POA to give authority for her daughter to perform not only these types of actions, but also to make any other financial decisions for Sara in the future.

Example B: Jack (**principal**), a Montana National Guardsman who has been deployed overseas, signed a POA that gives his wife (**agent**) authority to sell their home. He also authorized her to redeem a certificate of deposit titled solely in his name that will reach maturity while he is out of the country. Jack's POA limits his wife's actions to those two transactions only.

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