

InfoSheet

Appointment of an Enduring Guardian

Your enduring guardian makes health and lifestyle decisions for you

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Appointment of enduring guardian

When you appoint an enduring guardian you give that person the ability to make health and lifestyle decisions on your behalf if you lose the capacity to make those decisions yourself. Your enduring guardian can give consent for you to have medical and dental treatment and make lifestyle decisions for you.

Anyone older than 18 can appoint an enduring guardian who must also be over 18. We recommend you appoint a trusted friend or family member.

An enduring guardian must not be:

- a person in a professional or administrative capacity who is involved in providing you with medical services, accommodation or any other services to support you in your life; or
- a family member of such a person.

What can an enduring guardian do?

You can appoint your enduring guardian to:

- decide where you live (e.g. in a nursing home);
- decide what health care and other services you need (e.g. home care services); and
- consent to medical and dental treatment.

You can also appoint your enduring guardian to make decisions about your health care if you are suffering from a condition which involves severe distress or loss of normal powers of understanding. You can direct your guardian that you do not wish to have any extraordinary measures taken to prolong or sustain your life in those circumstances.

Appointing a guardian to carry out these functions is a very serious decision and needs to be taken in consultation with your lawyer.

The process

You must appoint your enduring guardian in writing in the prescribed form. The appointment must:

- be signed by you;
- be signed by your guardian; and
- have the signatures of you and your guardian witnessed by an eligible witness (e.g. solicitor or barrister).

The appointment of an enduring guardian has effect only during the period of time that you are totally or partially incapacitated.

Cancelling an appointment of an enduring guardian

The appointment will be cancelled if:

- you cancel the appointment in writing;
- your guardian no longer wants to act;
- the Guardianship Tribunal makes an order; or
- you marry after you make the appointment.

The revocation or resignation must be in the prescribed form and must be signed by you. It must also be witnessed by an eligible witness (e.g. solicitor or barrister).

Next step

The appointment of an enduring guardian is a very serious matter, requiring careful thought.

Please discuss your requirements with your lawyer at Ward Legal to enable the preparation of an appointment of your enduring guardian.

Contact Ward Legal's estate planning team

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