

ENDURING GUARDIANSHIP

(for use in Residential Aged Care Facilities)

This form deals with your future health care.

The time may come when you cannot speak for yourself. If you appoint an Enduring Guardian, you can give directions to that person about what medical treatment you would want, or not want, at such a time.

ENDURING GUARDIANSHIP

In NSW, the law allows you to appoint a person of your choice to make health care decisions for you in case you cannot make your own decisions at some time in the future. This person is called an Enduring Guardian and would usually be a close relative or friend of yours. It is important that you know you can trust the person you appoint to follow your wishes and make the decisions you would make for yourself, even if they or other family members do not agree with that decision.

You may also wish to complete an Advance Health Care Directive, in which you can give written instructions about what health care you do or do not want in case you cannot make your own decisions at some time in the future. However, as it is not possible, in an Advance Health Care Directive, to cover every situation that could arise, it is strongly recommended that you also appoint an Enduring Guardian, if you have not already done so.

SECTION 1:

1. Have you completed the “Appointment of Enduring Guardianship” form?

No - Go to question 5.

Yes

2. In that document, who did you appoint as your Enduring Guardian to make decisions for you in relation to personal/health matters?

Print your Enduring Guardian’s name, address and telephone number here:

Enduring Guardian’s Name: _____

Enduring Guardian’s Address: _____

Enduring Guardian’s telephone numbers: (work) _____ (home) _____

(mobile) _____

3. Did you appoint more than one Enduring Guardian?

- No (cross out the lines relating to a second Enduring Guardian)**
- Yes (provide details)**

Print the name, address and telephone numbers of your other Enduring Guardian here:

Second Enduring Guardian's name: _____

Second Enduring Guardian's address: _____

Second Enduring Guardian's telephone number: (work) _____ (home) _____
(mobile) _____

4. How did you decide that your Enduring Guardians would make their decisions?

(Tick one box only)

- Severally (any one of them may decide)
- Jointly (unanimously)
- Jointly or severally (any one may decide or they may decide together)

5. If you have not appointed an Enduring Guardian, do you wish to do so now by completing an Appointment of Enduring Guardian form?

- Yes – Go to Section 2 and complete the Form of Appointment of Enduring Guardian/s
- No – Go to Section 3

SECTION 2

Form of Appointment of Enduring Guardian/s

1. Appointment of enduring guardian or enduring guardians

I, (Write your name here) _____

of (Write your address here) _____

(a) appoint

NOTE: You may appoint one or more than one enduring guardian.

If you want to appoint more than one enduring guardian and you want your enduring guardians to have the same functions, then you should fill out this form by inserting the names of all your proposed enduring guardians in the place indicated. Each person must sign this form to show that he or she accepted the appointment. However, if you want to appoint more than one enduring guardian and want your enduring guardians to have different functions and act separately, you should fill out a different form for each enduring guardian appointed.

Name _____

Address _____

Occupation _____ Phone: _____

(mobile) _____

and

Name _____

Address _____

Occupation _____ Phone: _____

(mobile) _____

to be my enduring guardian or enduring guardians if because of a disability I am partially or totally incapable of managing my person.

(b) I appoint my enduring guardians to act jointly OR severally OR jointly and severally

NOTE: Statement (b) relates to the appointment of two enduring guardians. If you are only appointing one enduring guardian, then cross out section (b) and put your initials beside it. If you are appointing more than one person, you should indicate whether you want them to act jointly (with the same functions, and agreeing and acting together when making decisions) OR severally (with the same functions, and able to make decisions independently) OR jointly and severally (with the same functions, and able to act together or independently when making decisions). Cross out whichever does not apply and put your initials beside any writing you have crossed out.

(c) The death, resignation or the incapacity of one or more of my joint enduring guardians does not operate to terminate the appointment of any other of my joint enduring guardians.

NOTE: If you have appointed only one enduring guardian, cross out (c) and put your initials beside it. If you have appointed two or more enduring guardians jointly, you may state that the death, resignation or incapacity of one enduring guardian will not terminate the appointment of the other enduring guardians. If you do not want this to happen, then cross out (c) and put your initials beside the writing you have crossed out.

2. Functions

I authorise my enduring guardian or each of my enduring guardians to exercise the following additional functions:

- (a) Accommodation - to decide where I live.
- (b) Health Care - to decide what health care I receive,
- (c) Medical/dental - to consent to the carrying out of medical or dental treatment on me (in accordance with Part 5 of the Guardianship Act)
- (d) Services - to decide what other kinds of personal services I receive

NOTE: Your enduring guardian or enduring guardians will automatically exercise all of the functions listed above unless you cross out the functions you do not want your enduring guardian to exercise. You can cross out any or all of the above functions. You need to put your initials beside any writing you have crossed out. If you cross out all the functions, you need to list the functions that you want your enduring guardian or enduring guardians to exercise. If you would prefer, you can give your enduring guardian or enduring guardians power to exercise only part of any function.

3. Additional Functions

I also authorise my enduring guardian or each of my enduring guardians to exercise the following additional functions:

NOTE: You can add any additional functions here or leave this blank by crossing it out and putting your initials beside it.

4. Directions

I require that my enduring guardian (or each of my enduring guardians) exercise his or her functions subject to the following directions:

NOTE: You can add any specific requirements or limitations here or leave this blank by crossing it out and putting your initials beside it. If you have completed an Advance Health Care Directive, you should attach a copy to this form, and write on the lines below “All Directions as listed in my Advance Health Care Directive, as attached”.

5. Alternative enduring guardian

I appoint

I, Name _____

Address _____

Occupation _____ Phone: _____

(mobile) _____

to be my alternative enduring guardian.

NOTE: You can choose to appoint an alternative enduring guardian to exercise the functions of your enduring guardian if the enduring guardian dies, resigns or becomes incapacitated. If you do not want to appoint an alternative enduring guardian, cross this out and put your initials beside any writing you have crossed out.

6. Your signature to execute the appointment

Signature: _____

Date: _____

NOTE: If you cannot sign for yourself you can direct a person to sign the document on your behalf. This person must be at least 18 years of age, not a witness to this form of appointment, and not someone you are appointing as your enduring guardian or alternative enduring guardian. You should give this direction to sign on your behalf in the presence of the person who is witnessing the signatures.

Because I cannot sign, I direct

Name _____

Address _____

to sign this document on my behalf.

NOTE: If this statement does not apply, cross it out and put your initials beside any writing you have crossed out.

7. Acceptance of appointment

(Each person accepting appointment as an enduring guardian must sign below)

I accept my appointment as enduring guardian/alternative enduring guardian

(**NOTE:** Cross out whichever does not apply.)

Signature: _____

Name: _____

Date: _____

I accept my appointment as enduring guardian/alternative enduring guardian

(**NOTE:** Cross out whichever does not apply.)

Signature: _____

Name: _____

Date: _____

I accept my appointment as enduring guardian/alternative enduring guardian

(**NOTE:** Cross out whichever does not apply.)

Signature: _____

Name: _____

Date: _____

8. Certificate of witness

I, _____
of _____

being a NSW solicitor/NSW barrister/Clerk of a Local Court/interstate legal practitioner/
prescribed person (*cross out any that do not apply*) certify that:

(a) I witnessed the execution of this instrument by/for

(name of appointer)

and by

(name of appointee or appointees)

and

(b) each person executed the instrument voluntarily and appeared to understand the effect of the instrument, and

NOTE: a person may witness both the signatures of the appointor and the appointee or appointees. Where the signatures of appointor and appointee are witnessed by different persons, each witness should sign a certificate in respect of the signatures witnessed.

If an appointor has instructed another person to sign the instrument on his or her behalf, the witness must certify the matter referred to in (c).

(c) the appointor in my presence instructed the person named in the instrument to sign the instrument on the appointor's behalf.

NOTE: Cross out and initial if this does not apply.

Signature of witness: _____

State or Territory where signature witnessed: _____
(if witnessed outside New South Wales)

Date: _____

SECTION 3

PERSON RESPONSIBLE:

If you do not appoint an Enduring Guardian, the law provides a list of other people who will be able to make health care decisions for you if you lose the capacity to make your own decisions. In order of authority, those people are:

- Your spouse or partner (if you have one)
- A person who has been providing care for you on an on-going basis (but not someone who is a paid, professional carer) (if any)
- A close relative or friend

However, that might not be the person you would want to make your decisions, or there may be more than one relative or friend who wants to make the decision and they may disagree.

To ensure that your wishes are known and respected, it is recommended that you appoint your own Enduring Guardian.

If you have any queries in relation to the form, please contact:

- the Aged Services Learning & Research Collaboration, Southern Cross University;
email: aslarc@scu.edu.au or telephone: 02 66593197

or

- the Mid North Coast Division of General Practice;
email: info@mncdgp.org.au; (02) 66515774