



**HEIDTMAN & CO.**

**LAWYERS**

## **ENDURING GUARDIANSHIP**

### ***What Is An Enduring Guardian?***

An Enduring Guardian is someone that **you** choose to make personal or lifestyle decisions on your behalf, when you are no longer capable of making those decisions yourself.



### ***Why Appoint An Enduring Guardian?***

Everyone prefers to make lifestyle and personal decisions for themselves. Unfortunately accidents, old age and illness do occur which prevent us from being able to make these decisions.

Appointing an Enduring Guardian means that someone you trust will be able to make decisions for you if necessary.

### ***I Already Have A Power Of Attorney, What Is The Difference?***

A Power of Attorney allows another person to make decisions about your money and property.

A Power of Attorney does not grant someone power to make personal or lifestyle decisions on your behalf.

Appointing an Enduring Guardian allows someone you trust to make decisions affecting your lifestyle and personal circumstances such as which doctor you see, what health care you receive, where you live and consenting to medical and dental treatment on your behalf if you are unable to make these decisions yourself.

### ***What Decisions Can An Enduring Guardian Make?***

An Enduring Guardian can have as many or as few functions as you allow. For example, you can appoint your Enduring Guardian to make decisions solely about where you live or what health care you receive. Alternatively, you can give your Enduring Guardian many different functions.

You can also give your Enduring Guardian directions on how to make decisions (for example, to consult with close friends or family in certain circumstances).

### ***Who Can Appoint An Enduring Guardian?***

Anyone who is 18 years or older can appoint an Enduring Guardian provided they have the capacity to understand what they are doing.

### ***Who Can Be An Enduring Guardian?***

An Enduring Guardian must be at least 18 years of age and can be anyone who is not responsible for providing you with medical treatment, accommodation or care on a professional basis at the time of appointment. If you appoint more than one Enduring Guardian, you can appoint them to act jointly or independently.

The person should be someone that you trust to make decisions in your best interests if you are unable to make these decisions yourself.

### ***What Type Of Decisions Is An Enduring Guardian Unable To Make?***

When authorised by you, an Enduring Guardian can make a number of decisions on your behalf. There are, however, a number of things that an Enduring

Guardian is **not** permitted to do on your behalf.

These include:

- voting on your behalf;
- making a Will;
- consenting to marriage;
- managing your finances; and
- consenting to certain medical treatments.



### ***How Can I Appoint An Enduring Guardian?***

First, it is wise to discuss your future plans with your chosen Guardian to make sure that they understand what is involved and are willing to accept the appointment.

You may also wish to discuss the appointment with other important people in your life.

If you are interested in appointing an Enduring Guardian, we can assist by advising you of your options and preparing the necessary documentation on your behalf.

### ***When Does The Appointment Take Effect?***

The appointment will have effect only during such period of time as you are in need of an Enduring Guardian.

Guardians are often advised to seek the opinion of a medical practitioner about your capacity before acting on your behalf.

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### ***When Does An Enduring Guardianship End?***

An Enduring Guardianship terminates in the following circumstances:

- when you die;
- when the appointment is revoked or suspended; or
- when the Enduring Guardian resigns in limited circumstances.

An Enduring Guardianship is automatically revoked if you get married unless the person you marry is the Guardian under that Enduring Guardianship.

If you change your mind or wish to revoke the appointment then this can be done by completing a Revocation of Appointment of Enduring Guardian form. It is also necessary to advise the Guardian in writing that you have revoked the appointment.

If you have any further questions—we can help.

Drafted by David Heidtman

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