



NSW Enduring Powers of Attorney and Appointments of Enduring Guardian



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We strongly recommend that you consider appointing an Attorney and Enduring Guardian and also consider having a reserve Attorney and Guardian. Changes to the law in 2003 by the New South Wales State Government mean that an Enduring Power of Attorney no longer covers health and lifestyle issues and is restricted to property and financial matters.

Why have an Enduring Power of Attorney?

If you lose your mental capacity through injury or the onset of a medical condition (e.g. Alzheimer's or dementia) your spouse/partner/family cannot conduct your affairs on your behalf unless they hold an Enduring Power of Attorney. This is required to deal with Banks, Centrelink or transferring property. Please note the Power of Attorney must be an *Enduring* Power of Attorney and not a General Power of Attorney. **This Attorney is restricted to financial and property matters.**

In the event that no Enduring Power of Attorney is held and you lose your mental capacity, your affairs would be handled by the Office of the Protective Commissioner (also known as the Public Trust Office). Although your family could apply to the Guardianship Tribunal to be appointed as an Attorney or Guardian for you, the easier solution is to have the documents in place now.

What is an Appointment of Enduring Guardian?

An Appointment of Enduring Guardian appoints someone to act on your behalf as your Guardian in the event that you lose your mental capacity and cannot conduct your own affairs. The document is very similar to an Enduring Power of Attorney but it relates only to **health and lifestyle issues**. For example, if you required medical or dental treatment (which usually requires a consent form to be signed) this could not be undertaken if you have lost your mental capacity. Your appointed guardian can do this for you. Similarly, if you need to be moved into a nursing home or nursing facility because your condition has deteriorated, your Guardian can make the necessary arrangements on your behalf with the health authority. **An Enduring Power of Attorney does not extend to these areas.**

Once again, if you lose your mental capacity through injury or illness, your family cannot make these arrangements for you unless an Appointment of Enduring Guardian has been correctly signed. Your family would have to apply to the Guardianship Tribunal to be appointed as Guardians in order to look after your affairs. These applications are not always successful and the end result could be that a government agency is handling your affairs.

For enquiries regarding NSW Enduring Powers of Attorney and Appointments of Enduring Guardian, please contact Lesley Barnes on (07) 5506 8241 or by email lbarnes@attwoodmarshall.com.au.



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