

NSW GUARDIANSHIP REQUIREMENTS FOR

Residential Aged Care





Admission Requirements for NSW

When entering residential aged care, planning ahead and preparing for future health and lifestyle decision-making is important. If in the future, you are unable to continue to make decisions for yourself, we will need to know who has the authority to act on your behalf.

That's why, when moving into residential care if restricted practices are identified, we request residents to prepare their paperwork to appoint an Enduring Guardian. If you are transitioning from respite to permanent care, this needs to be provided before a resident's admission can progress.

If you would like support during the admissions process, our friendly Admissions team and Residential Managers are available to help you. Call 1800 225 474

Appointment of Enduring Guardian

An Enduring Guardian is someone you appoint to make lifestyle and health decisions on your behalf if you don't have the decision making capacity in the future.

Residents who have decision making capacity at the time of admission are required to **Appoint an Enduring Guardian**, if restricted practices are identified.

We request that this document include the following functions:

- Where you live and the services you might receive;
- Healthcare, medical and dental treatment you receive; and
- A Restrictive Practices function

You may also choose to add additional functions. To learn more and download the Appointment of Enduring Guardian (AOEG) form, please visit [Service NSW, Appoint an Enduring Guardian](#).

This is an important legal document, and we recommend that you obtain independent legal advice before signing it.

What happens if a resident is without decision making capacity at the time of admission?

For residents who **do not have decision making capacity** (or their decision-making ability is impaired due to disability, age, mental illness or injury) and **who do not already have in place valid APEG**, an appropriate person will need to be nominated as a representative to make personal decisions for the resident. This person is known as an Authorised Representative (AR).

If an **APEG form was signed by the resident when they had capacity**, this should be supplied at the time of admission, and this person will be assigned as the resident's AR.

If the older person is subject to restrictive practice and doesn't have an existing guardian with a Restrictive Practice Function, then an application will need to be made to the NSW Civil and Administrative Tribunal (NCAT). Catholic Healthcare can provide you with supporting documents needed for the application to NCAT.

A Resident with Restrictive Practices can only progress from respite to permanent care once an application has been made.

What is restrictive practice?

A restrictive practice is an action that restricts the rights or freedom of movement of a person. Restrictive practices aim to address behavioural issues and minimise harm; they do not aim to treat a medical condition. For that reason, they are not considered a form of medical treatment under the Guardianship Act 1987 (NSW).

If a resident requires restrictive practices, Catholic Healthcare will only use them as a last resort. Restraints will be used in accordance with a Behaviour Support Plan,

and alternative strategies will be sought. The Home will continue to work towards reducing and eliminating the use of restrictive practices wherever possible.

For further information, please read [Overview of Restrictive Practices](#) from the Aged Care Quality and Safety Commission about the use of restrictive practices in aged care.

Why do I need to include a Restrictive Practice Function in my APEG form?

The APEG form needs to specifically refer to "Restrictive Practice" as a function as it is not considered a medical treatment under the Guardianship Act 1987 (NSW).

If you have decision making capacity, you can give your nominated guardian a Restrictive Practice Function in your Enduring Guardian form to save your Guardian from needing to apply to NCAT for such a power if you lose capacity in the future.

More information about NCAT, Guardianship and Restrictive Practices is available here: [Restrictive Practices and Guardianship Fact Sheet](#).

For more information
contact **1800 225 474**
catholichealthcare.com.au