



Justice



Changes to the Guardianship Regulation in NSW

Please tell us what you think



How to use this document



This information is written in an easy to read way. We use pictures to explain some ideas.



This document has been written by the NSW Government Department of Justice. When you see the word 'we', it means the Department of Justice.



You can ask for help to read this document. A friend, family member or support person may be able to help you.



Some words are written in **bold**. We explain what these words mean. There is a list of these words on page 25.



This Easy Read document is a summary of 2 other documents – these are called:

- Guardianship Regulation 2016
- Regulatory Impact Statement – Guardianship Regulation 2016



You can find these 2 documents on **our website**.

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What is an enduring guardian?



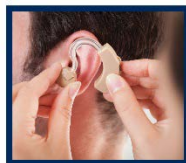
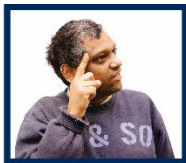
An **enduring guardian** is a person who you can choose to make decisions for you.

These decisions might include things like:



- your health care
- medical treatment you receive
- dental treatment you receive.

The people who might need an enduring guardian include:



- people with disability
 - intellectual – a disability affecting the way they think
 - physical – a disability affecting their body
 - psychological – a disability affecting the way they think, feel and behave
 - sensory – a disability affecting their senses, such as vision or hearing



- older people



- people with mental illness



- people who need constant care.



An enduring guardian will only make decisions if you can't make them on your own anymore.



If you can, it's a good idea to choose your enduring guardian while you can still make decisions on your own.



There are documents you need to read and forms you need to complete when you choose a person to become your enduring guardian.

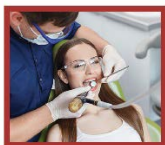
This process is called '**appointing**' an enduring guardian.

Background



The *Guardianship Act 1987* is a law.

It says that people with disability should be:



- receiving medical or dental treatment to make sure they stay healthy and well



- allowed to make decisions about their lives wherever possible



- protected from:

- abuse
- exploitation
- neglect.



The Act created:



- a guardianship system for adults with disability in NSW, including enduring guardians

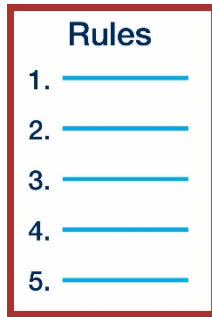


- a way to arrange **consent** for adults with disability in NSW to have medical or dental treatment.

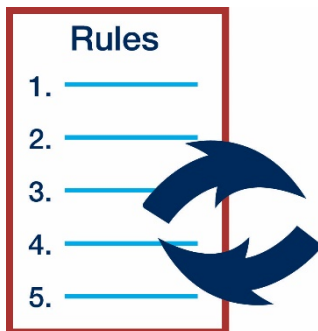


Consent means that you – or your enduring guardian – gives someone permission to do something, like provide medical or dental treatment.

What is the Regulation?



The **Regulation** is a set of rules about how the law is put into practice in everyday life.



Every so often, we make some changes to the rules.



We want to replace the Guardianship Regulation 2010.

We have written a new document called the Guardianship Regulation 2016.

The 2 documents are very similar.



On the following pages we explain:

- some changes that we want to make
- why we want to make them.



Before we make a Regulation, we need to write a **Regulatory Impact Statement**.

We often call this a RIS.

The aims of the RIS are to explain:



- The way the changes will affect the community.
- If there will be any costs to the community. These costs could be in financial terms, or in social terms – such as if the changes will cause any problems for people.
- The options for change that will produce the most benefits for the community.



We also need to ask people in the community what they think about the new Regulation.



This document summarises some parts of the Regulatory Impact Statement.



Copies of all of these documents are available on the **Department of Justice's website**.



You may like to share your thoughts with us about the changes to the Regulation.

We explain how you can do this on page 23.



What do we want to change?



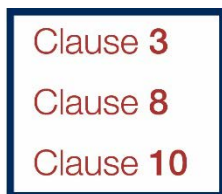
We don't want to change every part of the Regulation.

We just want to change some sections.



These sections are called '**Clauses**'.

On the following pages, we explain:



- which clauses we want to change
- what each clause is about
- the changes we want to make
- how we think the changes will benefit the community.

In this document, we only discuss the clauses that are being changed.



To understand all of the clauses, you will need to read the full Regulation document. This can be **found on our website**.



You are welcome to share your thoughts or ideas about any of the clauses with us.



Clause 3

Clause 3

Definition:

Clause 3 explains what some of the words and phrases in the Regulation mean.

This is called a **definition**.

We want to move some of the definitions to other Clauses:

drug of addiction



Clause 10

- 'drug of addiction' will move to Clause 10

simple sedation



Clause 11

- 'simple sedation' will move to Clause 11.



The changes to Clause 3 are minor. They won't create costs for the community, or cause any problems.

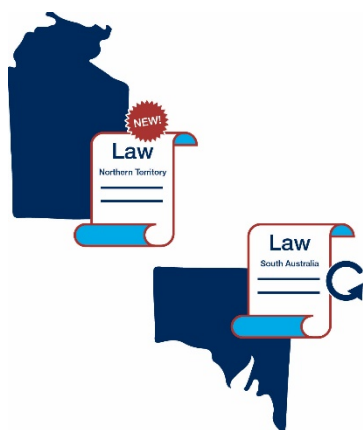
Clause 8



Clause 8 explains how the regulation works with other laws around the country.

It tells you which laws in each state are like the Guardianship laws in NSW.

The changes to Clause 8 are:



- including information about new laws from the Northern Territory
- updating information about parts of the law from South Australia.



We think that making these changes will benefit the community.



These changes will make things easier for people who move from one state to another.



These changes will mean that you could keep the same enduring guardian if you move to another state, or if your enduring guardian moves.



You won't need to fill out the forms again if one of you moves.



This will save time.



We don't expect these changes to cause any problems for the community.

Clauses 10, 11 and 14



Clauses 10, 11 and 14 are about medical treatment.



They explain when consent has to be given for medical treatment.

And they explain what is thought to be major treatment, rather than something minor.



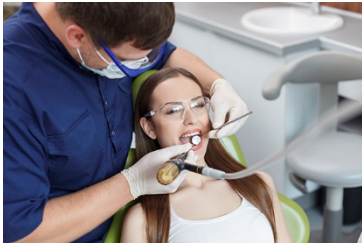
Major treatment may have a big impact on how you think or feel.



Minor treatment won't have a big impact.



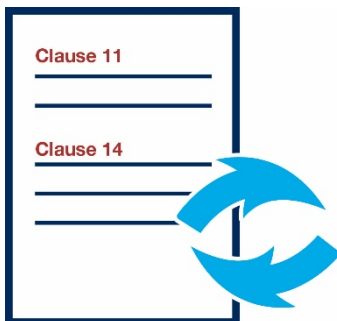
Clause 10 talks about major medical treatment.



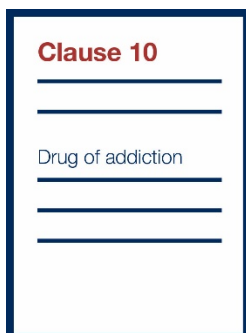
Clause 11 talks about major dental treatment.



Clause 14 explains **special treatments**. These types of treatment might be new or different to the kinds of treatment you have had before.



We want to make some changes to these clauses.



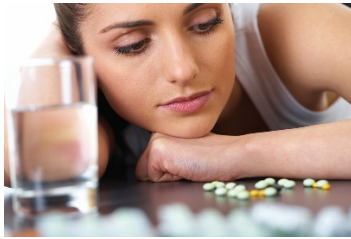
Clause 10 will now be about major treatment.

The meaning of the words 'drug of addiction' will now be included in Clause 10.

Clause 10 will include major treatments that use:



- hormones that control whether or not a woman can have a baby



- drugs that might be addictive



- operations or treatment that might need an **anaesthetic** – this is sometimes called sedation and it's when a doctor puts you to sleep to carry out treatment

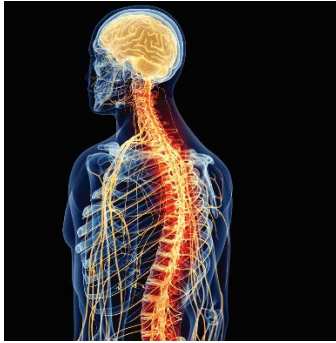


- any treatment that might be very risky



- testing for a virus called HIV.

Clause 14 will now include special treatments.



These treatments use:

- medication that affects a person's brain and spinal cord



- medication that changes or controls a person's behaviour.



We think that making these changes will benefit the community.



The changes will make the Regulation simpler and clearer.

It will be easier to understand which types of treatment are major.



Overall, we think this will save time and money.

We don't expect these changes to cause any problems for the community.



We think that some people will need more advice about making a decision.



Sometimes, they will need to get this advice from a court or tribunal.



We think that this will make things safer for the person who is having the treatment.



Clauses 12 and 13



Clauses 12 and 13 are about asking for consent.

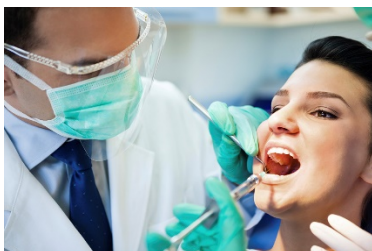


They explain when consent must be given in writing, or when it can just be talked about.

Clause 12 contains an explanation of 'simple sedation'.

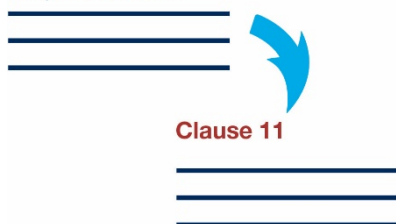


Simple sedation is a way of treating patients while they are still awake. It is often used in dental treatment.

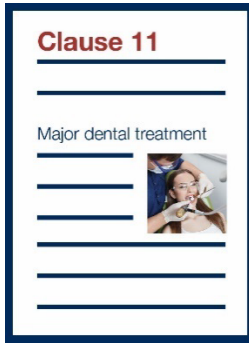


The dentist uses a drug that affects the person's brain and spinal cord and makes them feel sleepy, but doesn't make them fall completely asleep.

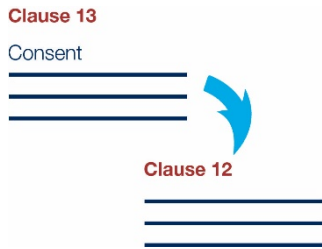
simple sedation



We want to change this explanation slightly, and move it to Clause 11.



The information about sedation belongs with Clause 11 because that's where we talk about major dental treatment.



We also want to move the information about consent that is in Clause 13 to Clause 12.



We think that making these changes will benefit the community.



These changes will make it clearer when consent needs to be given in writing.



Having consent in writing makes it easier for doctors, dentists and other health professionals to keep good records.



We don't expect these changes to cause any problems for the community.

How to tell us what you think



We want people to tell us what they think about the changes in the *Guardianship Regulation 2016*.

Writing to us with your ideas is called making a **submission**.



You can make a submission by writing what you think and sending it to us.



policy@justice.nsw.gov.au

Executive Director

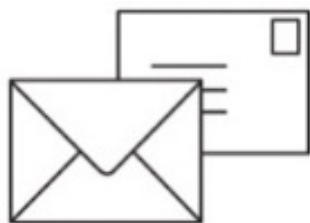
Justice Strategy & Policy

Department of Justice

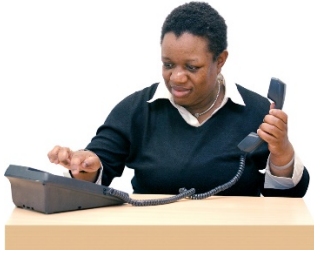
GPO Box 31

Sydney

NSW 2001



If you would like to tell us your thoughts in a different way, you can call Diversity Services on (02) 8688 8460 or (02) 8688 7507.



If you have a speech or hearing impairment you can use the National Relay Service on 133 677.



We might share your submission on our website. Other people will be able to read your submission unless you tell us not to share it.

Please visit our website for more information about:



- making submissions
- the closing date
- other documents you might want to read.

www.justice.nsw.gov.au



The Regulatory Impact Statement also gives you:

- more information
- the closing date.



Word list



Anaesthetic

When a doctor puts you to sleep or makes part of your body numb to give you treatment.



Appointing

Saying who your enduring guardian is going to be and filling out all of the forms.



Clauses

Parts of the Regulation with details about what the law means.



Consent

Saying it is okay for somebody to do something.

Clause 3

Definition:

Definition

An explanation of the meaning of a word.



Enduring guardian

A person you choose to make decisions for you when you can't make them yourself.



Major treatment

Treatment that may affect how you think or feel.



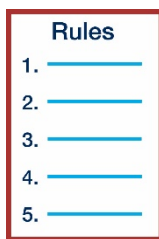
Minor treatment

Treatment that is unlikely to affect how you think or feel.



Regulatory Impact Statement

A document that explains the way any changes to the rules will affect the community.



Regulations

A set of rules about how the law is put into practice in everyday life.



Sedation

Giving you medication that will make you calm or put you to sleep.



Special treatment

Types of treatment might be new or different to the kinds of treatment you have had before.



Submission

Writing to us with your ideas about the changes to the rules.



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