

QUESTIONS AND ANSWERS ABOUT PROFESSIONAL FIDUCIARIES

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What is a professional fiduciary?

A fiduciary is a professional who can manage your estate in case you become incapacitated or pass away. Fiduciaries serve everyone from the most vulnerable populations (the elderly and those who can no longer care for themselves) to independent, productive people who need assistance making sound financial, health care and day-to-day decisions.

How can I tell if a fiduciary is licensed in California?

California's Department of Consumer Affairs has a Professional Fiduciaries Bureau and the state requires that fiduciaries be licensed. You can easily check if your prospective fiduciary is licensed at www.fiduciary.ca.gov. Being licensed ensures that your fiduciary is held to industry standards and policies, completes yearly continuing education and adheres to the law.

How can I tell if a fiduciary is a member of PFAC?

It's important that your fiduciary be a member of the Professional Fiduciary Association of California (PFAC). If he or she belongs to PFAC, this shows a high commitment to the profession and a desire to serve clients as well as possible. Ask your prospective fiduciary if he or she is an active member of PFAC, and whether or not he or she has been involved in their association at the local or statewide levels. The more involvement the better.

What other certifications should a fiduciary have?

Ask a fiduciary if he or she is a member of the National Guardianship Association (NGA) and if he or she is certified by the Center for Guardianship Certification (CGC), as these are nationally-recognized standards of excellence in guardianship from organizations that foster best practices in the provision of quality guardianship services. Also, ask if he or she has completed an accredited program for conservators and trustees. Does he/she attend annual educational conferences offered by PFAC or NGA?

What about having a friend or family member act as a fiduciary?

Having a family member manage a person's care and estate can be a good choice in some cases. However, no standards are required of friends or family members who act as fiduciaries. Plus, as beneficiaries, family members could have a conflict of interest and in some cases have taken financial advantage of the situation. Consider, too, that family members typically don't have the range of skills you would expect of a professional fiduciary. They can be overwhelmed when juggling their fiduciary work with their family and work life. You should consider choosing a professional fiduciary rather than a friend or family member to act as your trustee/executor.

What are some of the roles that a professional fiduciary may play?

Acting as a trustee is a complex job. Being a fiduciary may require expertise in financial, health care, and quality of life topics. He or she may have expertise in the law, accounting, real estate, taxes (especially trust and estate taxes), and sometimes much more.

What about having co-trustees? Doesn't it seem fair that the people who will ultimately benefit should share all the work – and save on fees charged by a fiduciary?

Co-trustees must agree – unanimously – on every single decision. Consider human nature and you will realize that that seldom works.

What are the plusses and minuses of using corporate fiduciaries?

A corporate fiduciary is a bank or trust company that serves as a fiduciary. This can be a good choice in complex situations involving individuals with significant wealth. However, corporate fiduciaries must use the investment departments inside their own bank or corporation, rather than act independently. Also, they are unlikely to know the local providers that would be best for you. Furthermore, banks prefer to manage only large accounts. What happens if the value of your account falls below their minimum threshold when you become incapacitated?

Why should I choose a professional fiduciary?

Independent professional fiduciaries offer peace of mind. They will get to know you and are duty bound to follow your wishes. It is important to establish a good relationship with a professional fiduciary. Their training, expertise, and objectivity are assets. Professional fiduciaries are held to industry standards in order to ensure that your finances are as secure as possible. They are objective, responsive, and know how to work with all the beneficiaries and family members – and they have the time to manage your affairs because that is their full-time job.

QUESTIONS TO ASK YOUR FIDUCIARY

- Ask how long your fiduciary has been practicing and if he/she has handled the types of issues that may arise in your case.
- Is he/she bondable and insured? How does he/she handle banking and mail?
- If he/she has employees, have those employees been background-checked and is the fiduciary insured for employee liability/theft?
- Does your prospective fiduciary have the background or staff with knowledge of the possible medical issues related to your case?
- Is he/she knowledgeable about local service providers, and can he/she work well with your established providers?
- What security measures does he/she have in place to assure that your information is protected?
- Are his or her computers backed up daily in another location?
- If there is a natural disaster, what is his or her plan for resuming business as quickly as possible?
- Does he/she have a succession plan – someone to act as your trustee in case he/she dies before you do?
- What plans has your fiduciary made if they take a vacation or become ill?
- What are the fees?
- Ask for references. You want someone who has provided services to many other families and individuals.