



## FREQUENTLY ASKED QUESTIONS ABOUT PROFESSIONAL FIDUCIARIES

### **Q: What is a Professional Fiduciary?**

**A:** Professional Fiduciaries are entrusted to provide financial and healthcare options that ensure their client's dignity and peace of mind. They provide the experience, resources and knowledge to oversee services like paying bills, legal, investment management, medical care, housing, and nutrition, among other things.

**A:** Professional Fiduciaries are licensed and regulated by the State of California and must follow a strict code of ethics. One must take courses required by the licensing bureau, pass a lengthy exam, attend continuing education, have a clean background check and be bondable.

Additionally, they are strictly bound by the California Probate Code and ultimately answer to the Court even if the matter is not court supervised. Professional Fiduciaries are ultimately responsible for the actions of anyone they hire to assist with managing a client's needs such as investment companies or realtors. The Professional Fiduciary may be surcharged by the court for client losses resulting from improper management.

### **Q: Who do Professional Fiduciaries serve?**

**A:** Professional Fiduciaries serve seniors, people with mental and physical disabilities and children who do not have a family member with the skills or proximity to manage and protect their money and/or healthcare needs before and/or after they die, and who do not have the knowledge or ability to manage these affairs themselves.

Additionally, they manage Special Needs Trusts for developmentally and mentally disabled individuals and are also guardians of children.

**A:** For people with potentially difficult family dynamics, a Professional Fiduciary can serve as an independent third party to keep their clients safe and to protect their assets.

### **Q: Why would you use a Professional Fiduciary?**

**A:** There are a number of different types of Professional Fiduciary relationships. Each comes with unique duties and responsibilities for the person who requires representation (usually known as the principal, ward or beneficiary).

**A:** There are many benefits to hiring a Professional Fiduciary. A Professional Fiduciary has the knowledge and resources to help manage an estate, financial affairs, and a special needs trust.



These are often complicated matters

and require experience and expertise.

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One can have peace of mind that matters are being handled in a skilled and ethical way. Hiring a Professional Fiduciary can also help minimize family drama and preserve relationships among siblings and relatives.

### **Q: When should you use a Professional Fiduciary?**

**A:** There are several common situations when someone may choose to hire a Professional Fiduciary. When doing advanced estate planning, a person with full mental capacity may name a private fiduciary to oversee health care or manage finances in the event of future incapacity. This may include naming the fiduciary as POA for finance, the power of attorney for an Advanced Healthcare Directive and be named in trusts as the successor trustee who steps in after the person passes away

**A:** A Professional Fiduciary can oversee the health care and/or finances of someone with impaired mental capacity, such as an elder with Alzheimer's that did not do advanced estate planning. Family members may agree on a Licensed Professional Fiduciary to act as a court appointed conservator over their elder's person and estate. And a Professional Fiduciary can be bonded where most family members cannot.

**A:** In the case where the elder named children as co-trustees in the event of incapacity, and the children disagree over care and financial matters, they may choose to hire a Professional Fiduciary to take over in an oversight role, or a court may intervene and appoint a Professional Fiduciary. In blended families with children from different marriages, an elder may choose to name a Licensed Professional Fiduciary to ensure their wishes will be fulfilled after they are gone, knowing having a neutral person step in will aid with family harmony.

**A:** A Professional Fiduciary may be needed in situations of what is called "undue influence" where someone with significant financial resources needs the impartiality of a Professional Fiduciary to make decisions on his/her behalf because of evidence that family members (or an appointed agent) may misuse or take advantage of access to the person's finances.

### **Q: How does the process work?**

**A:** A Professional Fiduciary is licensed by the State of California and follows a code of ethics. Licensed Fiduciaries are required to act within the legal authority granted to them and most importantly, are required to act in the best interest of the person they are representing.

**A:** Licensed Professional Fiduciaries are either appointed by the court or hired privately. They are often referred by an attorney who has drafted a trust agreement on behalf of an individual



and then refers their client to a

Professional Fiduciary to administer a

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trust or be put forward to the court for appointment.

**A:** Professional Fiduciaries can also serve in the capacity of court appointed probate administrators when no prior estate planning has been done, or when the decedent's family members are out of the state or country, and as will other court appointed positions, Licensed Professional Fiduciaries can be bonded as the court requires when family members cannot.

**A:** An elder or disabled person who would like to appoint a neutral individual to manage their healthcare and/or finances can name a Professional Fiduciary in their Power of Attorney documents. In instances where a senior has not named an agent to act on their behalf prior to becoming incapacitated, or in cases where an already appointed agent is misusing or abusing their position, guardianship (also known as conservatorship) proceedings can be brought to protect and assist the elder or disabled person.

### **Q: What is the mission of the Professional Fiduciary Association of California (PFAC)?**

**A:** PFAC's goals are to provide ongoing professional education to licensed fiduciaries or those seeking licensure in California, and to provide opportunities for members to share knowledge and resources.

### **Q: How many members are in PFAC and how does one become a member?**

**A:** PFAC currently has over 700 members. Professional Fiduciaries and other industry professionals must apply for membership, meet rigid membership qualifications and be reviewed by a peer group for membership acceptance.

### **Q: Why should someone become a member of PFAC?**

**A:** PFAC provides high standards of professional education, opportunities for camaraderie and sharing of best practices and mentoring.

### **Q: What is the value of working with a member of PFAC vs. a non-member?**

**A:** All PFAC members adhere to a professional code of ethics. PFAC members have access to the highest level of professional education and a large network of experienced professionals in related fields that can serve their clients. When you work with a PFAC member, you have an entire team on your side to help you find the best services and care for you and your family. Members also have access to greater resources through our team of experts that we have gathered to address any issue that might arise.



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**A:** A Professional Fiduciary is like the “captain of the ship”, making sure everything needed by the client is accomplished, from investing their assets to engaging a care manager to more closely monitor their health and wellbeing. This means a Professional Fiduciary also provides a broader, more personal relationship than a bank trust department (who may have a high turnover rate). The Licensed Professional Fiduciary is not just a “check book” but is involved with every aspect of their client’s life to assist with healthcare decisions and how and why they client spends their money.

**Q: How does PFAC help the community?**

**A:** PFAC members are actively involved in giving back to the communities in which they work and serve their clients.

**Q: How can people learn more about PFAC?**

**A:** You can learn more about PFAC by visiting [PFAC-pro.org](http://PFAC-pro.org).