

What Qualifications Should a Private Professional Fiduciary Possess?

By Lindsay Leonard,
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Lindsay Leonard, a California licensed private professional fiduciary, has continuously offered her services to the public for the last 10 years. In that time, she encountered many scenarios where families struggled with their own internal dynamics during periods of rapid, cumulative changes. Those shifting components led her clients to seek outside assistance, which eventually brought them to Lindsay.

California is one of the few states that license private fiduciaries. (California Business and Professions Code, Section 6500-6592, California Code of Regulations, Section 4400-4622) While being licensed is a requirement, it may not determine whether a fiduciary is a good fit for your circumstances and family dynamics. It's always recommended that you meet with and interview three private professional fiduciaries and present a list of questions addressing your particulars, to ensure that you find the professional who best suits your individual needs.

Who is the right fiduciary for your state of affairs?

Family members considering the employment of a private professional fiduciary might want to screen licensed fiduciaries for the capacity to assume one or more roles as conditions morph. Not all fiduciaries handle all matters. For example, some fiduciaries prefer trust administration over court appointed conservatorships and probate administration. Some fiduciaries are more willing than others to get involved when family members are at odds with one another.

Experience, personality, reputation, gender, age, rates and the manner in which charges for services are accrued; location, support staffing and availability are all factors that may be immensely relevant. A fiduciary generally will make himself or herself available to meet family members so the family can assess the fiduciary's background and potential approach to a situation. For example, if the subject elder resides in an assisted care living facility in a nearby town, finding a fiduciary who knows the staff at the facility may be helpful.

How do California courts view private professional fiduciaries?

Judges manage many cases and often are quick to appoint a private professional fiduciary to take over as conservator or trustee in murky situations where family members angrily accuse each other of manipulation and undue influence with respect to an elder or dependent adult.

Experienced fiduciaries and their attorneys are well known to probate judges and court staff. Typically, a professional fiduciary's assessment of what is best for an elder will carry a lot of clout with a judge. Because the fiduciary is not a blood relation, having no personal stake as a beneficiary in the estate to affect his or her approach to the situation at hand, there is a presumption of objectivity. Therefore, if the fiduciary takes an approach that is reasonable, the interested family members can be reluctant to ask a judge to overrule it given the likelihood that the judge will give some discretion to the fiduciary.

What's the takeaway?

Family members can benefit in many ways from the appointment of a private professional fiduciary as long as they first do their homework. A private professional fiduciary can provide caring and experienced assistance to an elder in California, and may avoid or resolve intra-family conflict associated with the elder's care and resources while enabling the other family members to enjoy their own lives. Private professional fiduciaries provide critical services to seniors, persons with disabilities, and children. They manage matters for clients including daily care, housing and medical needs, and also offer financial management services ranging from basic bill paying to estate and investment management. Once the best match is found, relax! You'll be in expert hands.

Lindsay Leonard is the founder and owner of Santa Barbara Fiduciary. She has been a licensed California Professional Fiduciary since 2010 and has certifications in Professional Fiduciary Management for Conservators and Trustees. She is a National Certified Guardian, a Registered Trust & Estate Practitioner (TEP), and a member of the Santa Barbara Estate Planning Council. For more information about the nature of services available from private professional fiduciaries, please see: <http://santabarbarafiduciary.com/>.



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