



# How a Fiduciary Can Help You ...

## *And How to Choose Wisely*

Presented by

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**Childers & Coventry**  
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## Background

- Employee benefits & compensation consulting
- Master of Arts degree - Gerontology
- Elder law / estate planning
- Georgia transplant to Arizona
- Licensed professional fiduciaries
- Prescott Office of Childers & Coventry, LLC

# Agenda

- Definitions
- Estate planning considerations
- Fiduciary roles
- Guardianships / conservatorships
- Types of fiduciaries
- Oversight and regulation
- Key considerations for choosing wisely

*Please note that  
this presentation  
is not intended to  
provide legal  
advice.*

# Definitions and Examples

A **fiduciary** is someone who accepts the responsibility for taking care of the needs or property of another person for the benefit of that person.

- |                     |                     |
|---------------------|---------------------|
| • Money manager     | • Insurance agent   |
| • Financial advisor | • Lawyer            |
| • Banker            | • Board member      |
| • Accountant        | • Corporate officer |

## Fiduciary Role

A **fiduciary** is someone who accepts the responsibility for taking care of the needs or property of another person....

..... **potentially someone who is vulnerable or incapacitated**

for the benefit of that person....

..... **the benefit of that person, not the fiduciary's benefit**

*The fiduciary serves in a role of trust.*

## Estate Planning

Most people say.....

*"I've worked hard to accumulate my assets"*

*"I want to CONTROL:*

*WHO gets my stuff*

*WHEN they get it*

*WHAT they do with it"*

*"I don't want*

*to be a burden*

*to my family."*

# Estate Planning

## *Important Legal Documents....*

Health Care Power of Attorney	➡	Agent for health care decisions
Durable (Financial) POA	➡	Agent for managing finances
Last Will Testament	➡	Executor/Personal Representative
Trust (revocable living trust)	➡	Trustee, upon incapacity or death

## *Nominate fiduciaries:*

**Best Practice:** Nominate a successor, and preferably two (2) successor fiduciaries, in case a fiduciary cannot serve for any reason.

# No Estate Plan May be a Plan

*Potential* outcomes include:

- Guardianship
- Conservatorship
- Legal fees, court costs
- Public proceedings
- Court supervision and permissions
- State determination of intestate heirs

**Confusion**

**Stress**

**Expense**

**Crisis**

## **Types of Fiduciaries**

- Individuals
  - ✓ Family members
  - ✓ Trusted friends
- Institutional
  - ✓ Banks
  - ✓ Trust companies
  - ✓ Minimum asset requirements
- Public fiduciary
- Private fiduciary companies

## **AZ Licensed Private Fiduciaries**

- Range in size from one to 20+ employees
- Roles and Duties
  - ✓ Advocate
  - ✓ Decision-maker
  - ✓ Communicator
  - ✓ Administrator
- Oversight by AZ Supreme Court and Fiduciary Licensing Board
- AZ Code of Judicial Administration Section 7-202(J)

## **ACJA Section 7-202(J) – Code of Conduct**

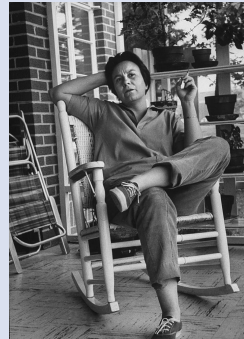
- Highest degree of trust, loyalty and fidelity
- Manage and protect the personal and monetary interests
- Foster independence and self-reliance
- Avoid self-dealing
- Be independent of other service providers
- Vigorously protect against infringement of third-parties
- Extreme care and diligence
- Communicate information to the protected person
- Follow the preferences of the protected person if at all possible
  - Or best interests of the protected person
- Accurate record-keeping

## **Choose a Fiduciary Wisely\***

- Timely decision-making
- Operates within authority and seeks guidance when needed
- Excellent communication
- Variety of services and capabilities
- Efficient and transparent fee structure
- Willingness to work with and cooperate with client's lawyers and investment advisors

\*Handout: "Questions You Should Pose  
To a Potential Fiduciary"

## Importance of Trust



## ***Thank you***

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*Please note that this presentation is not intended to provide legal advice. Please consult your attorney.*