

## Estate Planning & End-of-Life Document Drafting Recommendations When Naming a Fiduciary from Hansen & Pereira

### Documents

POA for Health Care	POA for Finance	Will <i>pour over only</i>	Living Trust	Irrevocable Trust	Special Needs Trust
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#### **Drafting Provisions:**

##### **Fiduciary Basics:**

Reasonable Compensation	X	X	X	X	X	X
<i>If professional fiduciary, compensation shall be per fiduciary's fee schedule in effect at time services are rendered, as amended from time to time with 60-days written notice (including on wills)</i>	X	X	X	X	X	X
Expense Reimbursement	X	X	X	X	X	X
Consider No Bond Requirement	X	X	X	X	X	X
Resignation & Removal Protocols	X	X	X	X	X	X
<i>If professional fiduciary, removal for cause only if without notice, or if for no cause, allow 30 days written notice to fiduciary to allow voluntary resignation and ability to plan for transition to new fiduciary (or back to client)</i>	X	X		X	X	X
Power of Fiduciary to Appoint Successor, if named last	X	X	X	X	X	X
ROI for Fiduciary & Client Attorney to Communicate	X	X		X		
HIPAA Release for Other Named Fiduciaries and Any Family/Friends	X	X		X		

##### **Fiduciary Powers:**

Hire Care Manager	X	X	X	X	X	X
Hire Agent				X	X	X
Access Digital Assets		X	X	X		
Establish Third Party SNT			X	X	X	
Agent's Discretion to Make Charitable Gifts via IRA RMD		X		X		
Distributions in Trustee's Sole & Absolute Discretion				X	X	X
Discretion to Supplant Public Benefits						X
Defend Terms of Trust/Will at Expense of Trust/Estate			X	X	X	X

##### **Fiduciary Liability:**

180-Day Limitation on Contest of Accounting				X	X	X
No Obligation to Investigate Prior Fiduciary's Acts Unless Evidence of Wrongdoing	X	X	X	X	X	X
Consider limitation on liability to "gross negligence, malfeasance, and/or willful misconduct"	X	X	X	X	X	X

##### **Client Instructions:**

Personal Property Instructions			X	X		
Pet Care & Distribution Provision (incapacity and death)		X	X	X		
Firearms Provision		X	X	X		
Wishes for Disposition of Remains/Cremains	X					
Statements of Intent/Letters of Instruction:						
<i>Spending Preferences During Lifetime</i>	X	X		X		
<i>Spending Preferences of Settlor for Self or Beneficiary</i>				X	X	X