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Fiduciary – A Funny Word with Real Responsibilities

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Fiduciary is sort of a funny sounding word, isn't it? Many of us have heard the word, but are not really sure what it means. In the general sense, a fiduciary is someone who is in a relationship of confidence or trust and required to make decisions in the best interest of another person.

In the estate planning world, common fiduciary roles are trustee, personal representative, financial agent, healthcare agent, guardian and conservator. Under Michigan law, a fiduciary must carry out certain duties and act toward others (the person appointing him/her and potentially third parties) in a certain way. Because of this, it is very important to take your fiduciary role seriously and make sure you are aware of what the law requires of your or have one of our attorneys working with you to provide you with the needed guidance.

Generally speaking, all fiduciary roles require the following:

- Consult with the person appointing the fiduciary, if that person is competent
- Make all decisions based on what is in the best interest of the person appointing the fiduciary
- Provide reports and/or accountings to legally required third parties (referred to as "interested persons"), and in some cases, to the Probate Court

Additionally, each specific fiduciary role has its own unique legal rights and obligations. We have had several cases this year involving fiduciaries who did not adhere to the legal requirements of their role. It is not a pleasant situation to be in to have allegations made against you of misuse of finances, failure to inform "interested persons", or unduly influencing the person who appointed you. If you have any questions about serving as a fiduciary or would like guidance in properly carrying out your role, give us a call. We are well-versed in the legal requirements, the practical issues, and are happy to help!