

PROFESSIONAL FIDUCIARIES BUREAU
(Division 41, Title 16, California Code of Regulations)

Second Modified Text

LEGEND

Underline indicates proposed additions to the existing regulation.

~~Strikeout~~ indicates proposed deletions to the existing regulation.

Double Underline indicates additions to the originally proposed text of regulations.

~~Double Strikeout~~ indicates deletions to the originally proposed text of regulations.

Italics and Dotted Underline indicates proposed additions to the modified text.

~~Dotted Underline and Double Strikeout~~ indicates deletions to the modified text.

Adopt Article 12, § 4640 of the California Code of Regulations as follows:

Article 12. Rules of Professional Conduct.

Section 4640. Client Notification.

Every licensed Professional Fiduciary shall at all times provide notice reasonably calculated to be received by the licensee's ~~current and prospective~~ clients, of the fact that the licensee is licensed by the Professional Fiduciaries Bureau, as set forth in subdivisions (a), (b), and (c) below. For purposes of this section, "licensee" means a person who is a licensed Professional Fiduciary under the Professional Fiduciaries Act. For purposes of this section, "client" means a person who is the recipient of professional fiduciary services or has a written agreement to receive professional fiduciary services from the licensee in the future. Notice shall be provided to all ~~current and prospective~~ clients by all of the following methods:

(a) At the licensee's place of business, in a location which is accessible to the public, notification shall be prominently posted in a conspicuous location visible to clients, and shall include the following statement and information in at least ~~48~~ 36 – point type in Arial font:

NOTIFICATION TO CONSUMERS

Professional Fiduciaries are licensed and regulated

by the Professional Fiduciaries Bureau

Professional Fiduciaries Bureau Telephone: (916) 574-7340

Professional Fiduciaries Bureau Website: www.fiduciary.ca.gov

Licensees who maintain a home-based office not accessible to the public are exempt from subsection (a).

(b) Licensees shall provide ~~clients~~ a written notice as described in subsection (a) to all parties ~~to all clients~~ stating the licensee is a licensed Professional Fiduciary and regulated by the Bureau. The written notice shall contain the Bureau's telephone number and website address. The notice shall be signed and dated by the client and retained in the client's records. ~~If the client is a minor or deemed mentally or physically~~

~~incapacitated, or has a court representative, or is represented by an attorney of law, a copy of the notice shall be mailed to the client's legal representative, court appointed representative and/or attorney's address of record, as described in subdivisions (1), (2), (3), and (4) of this subsection in at least 14 – point Arial font. Notice can be provided in person, by email, by mail or by facsimile. If notice is provided in person, licensee shall maintain a dated copy copies, signed by all required parties in the client file. If notice is provided by email, licensee shall maintain a copy of email confirming notice was sent. If notice is provided by mail, licensee shall maintain a copy along with proof of mailing, including proof of service in accordance with California Code of Civil Procedure 1013(a), registered mail or certified mail. If notice is provided by facsimile, licensee shall maintain a copy of notice and facsimile confirmation in client file. Dated copies of the written notice shall be kept in the case file as proof of mailing and provided to the following parties in at least 14 – point Arial font:~~

(1) If licensee is serving as trustee, written notice as described in subsection (a) shall be provided to the settlor(s). Once the settlor(s) are deceased, written notice shall be provided to all parties referred to in Probate Code section 16061.7 (b)(1) & (b)(2). Licensee may provide the required written notice with notice as required under Probate Code section 16061.7 or under separate cover.

(2) If the licensee is serving as conservator, written notice as described in subsection (a) shall be provided to all parties referred to in Probate Code section 1822(b). At the inception of a conservatorship, licensee shall also provide notice to the attorney for the conservatorship, if one exists. Licensee may provide the required written notice with notice as required under Probate Code section 1822 or under separate cover.

(3) If the licensee is serving as guardian, written notice as described in subsection (a) shall be provided to all parties referred to in Probate Code section 1511 (b) and (c). At the inception of a guardianship, licensee shall also provide notice to the attorney for the minor guardianship, if one exists. Licensee may provide the required written notice with notice as required under Probate Code section 1511 or under separate cover.

(4) If the licensee is serving as agent under durable power of attorney (POA) for finance or healthcare, written notice as described in subsection (a) shall be provided to the individual the licensee is serving as POA.

~~(c) If the licensee maintains a Website, a written notice as described in subsection (a) “NOTIFICATION TO CONSUMERS.” shall be posted on the licensee’s Website in at least 14 – point type Arial font.~~

NOTE: Authority cited: Sections 138 and 6517 of the Business and Professions Code. Reference: Sections 6515, 6516, 6520, 6530, 6532 and 6533 of the Business and Professions Code; and Sections 1511, 1822, and 16061.7 of the Probate Code.

DATED: _____

Tracy Montez
Professional Fiduciaries Bureau