

# PROFESSIONAL FIDUCIARIES BUREAU

(Division 41, Title 16, California Code of Regulations)

Fourth Modified Text

## CLEAN COPY

**For your convenience, below is a “clean copy” of the proposed regulation that shows the resulting language that incorporates the four modifications made to the text since initial notice. All written comments received by August 14, 2017, which pertain to the most recent modification to the third noticed text will be reviewed and responded to as part of the compilation of the rulemaking file. Please limit your comments to only the modifications to the third modified text.**

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

Article 12. Rules of Professional Conduct.

Section 4640. Client Notification.

Beginning January 1, 2018, every licensed Professional Fiduciary shall at all times provide notice reasonably calculated to be received by the licensee's 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 clients by all of the following methods no later than March 1, 2018:

(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 36 – point type in Arial font:

NOTIFICATION TO CONSUMERS  
Professional Fiduciaries are licensed and regulated  
by the State of California, Department of Consumer Affairs,  
Professional Fiduciaries Bureau  
Telephone and Website: (916) 574-7340 [www.fiduciary.ca.gov](http://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 written notice as described in subsection (a) to all parties 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, 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 service in accordance with California Code of Civil Procedure 1013a, registered mail or certified mail. If notice is provided by facsimile, licensee shall maintain a copy of notice and facsimile confirmation in client file. All notices and confirmations shall be retained in the client file for three (3) years after the licensee is no longer retained by the client.

(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 pursuant to 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 conservatee, 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, 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, written notice as described in subsection (a) 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: \_\_\_\_\_

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Rebecca May, Bureau Chief  
Professional Fiduciaries Bureau