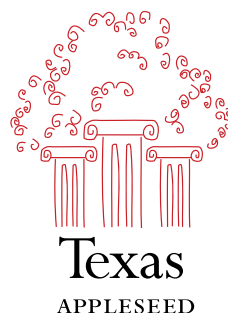




MANAGING SOMEONE ELSE'S MONEY IN TEXAS

Help for Agents Under a Power of Attorney



THIRD EDITION

About Texas Appleseed & AARP

Texas Appleseed is a nonpartisan nonprofit focused on bringing about policies that are fair, just, and equitable for all Texans. Fueled by data, legal expertise, and a commitment to supporting vulnerable communities, its work has shaped hundreds of state and local policies and positively impacted millions of Texans. For more information, visit texasappleseed.org.

AARP, with its nearly 38 million members in all 50 states and the District of Columbia, Puerto Rico, and U.S. Virgin Islands, is a nonpartisan, nonprofit, nationwide organization that helps people turn their goals and dreams into real possibilities, strengthens communities, and fights for the issues that matter most to families, such as health care, employment and income security, retirement planning, affordable utilities, and protection from financial abuse. In Texas, AARP has 2.3 million members. To learn more, visit aarp.org/tx.

This Guide was adapted from the Consumer Financial Protection Bureau's (the "CFPB's") *Managing Someone Else's Money* guides. Texas Appleseed and AARP prepared this Guide to include information about Texas state law and resources. The CFPB has not reviewed or approved the content in this Guide, and the CFPB does not necessarily endorse the final product.

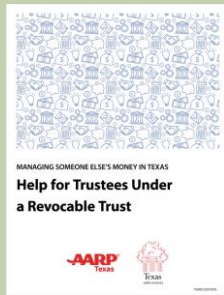
We would like to thank Baker Botts L.L.P. for its pro bono support in creating and updating this series of guides.

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What's Inside

About Texas Appleseed & AARP	3
Why read this Guide?	7
Let's review some vocabulary	9
What is a fiduciary?	10
Power of attorney questions	10
Four basic duties of a fiduciary	13
Duty 1: Act only in Martina's best interest	13
Duty 2: Manage Martina's money and property carefully	16
Duty 3: Keep Martina's money and property separate	17
Duty 4: Keep good records and communicate your actions	18
More things you should know	19
Other fiduciaries	19
Government benefits	20
Problems with family or friends	20
Other professionals	20
Watch out for financial exploitation	22
Common signs	22
Be on guard for consumer scams	24
How can I protect Martina from scams?	24
Where to go for help	26
Local and state agencies	26
Medicaid/medical assistance	28
Police or sheriff	29
Federal agencies	30
Legal help	30
Accounting help	32

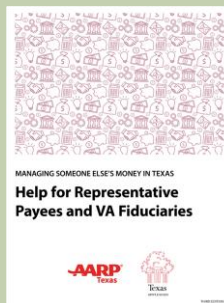
You May Want to Read Our Other Guides



Help for Trustees Under a Revocable Trust is a helpful resource for a person serving as a Texas trustee.



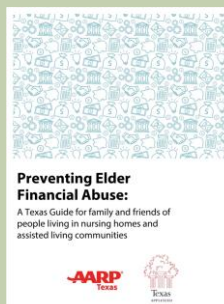
Help for Court-Appointed Guardians of the Estate is a helpful resource for a person appointed by a court to serve as guardian for another person.



Help for Representative Payees and VA Fiduciaries is a helpful resource for someone who manages another person's federal benefits.



Help for Supporters Under a Supported Decision-Making Agreement can help answer questions a supporter may have about his or her role and responsibilities.



Preventing Elder Financial Abuse can help answer questions from a family member or friend about protecting a loved one in assisted living or a nursing home from financial abuse.

Why read this Guide?

Like many people, you may never have been an agent under a power of attorney before. That's why we created *Managing Someone Else's Money in Texas: Help for Agents Under a Power of Attorney*. This Guide will help you understand what you can and cannot do in your role as an **agent** or an **attorney-in-fact**. In that role, you are a **fiduciary**. In this Guide, you'll find brief tips to help you avoid problems and resources for finding more information.

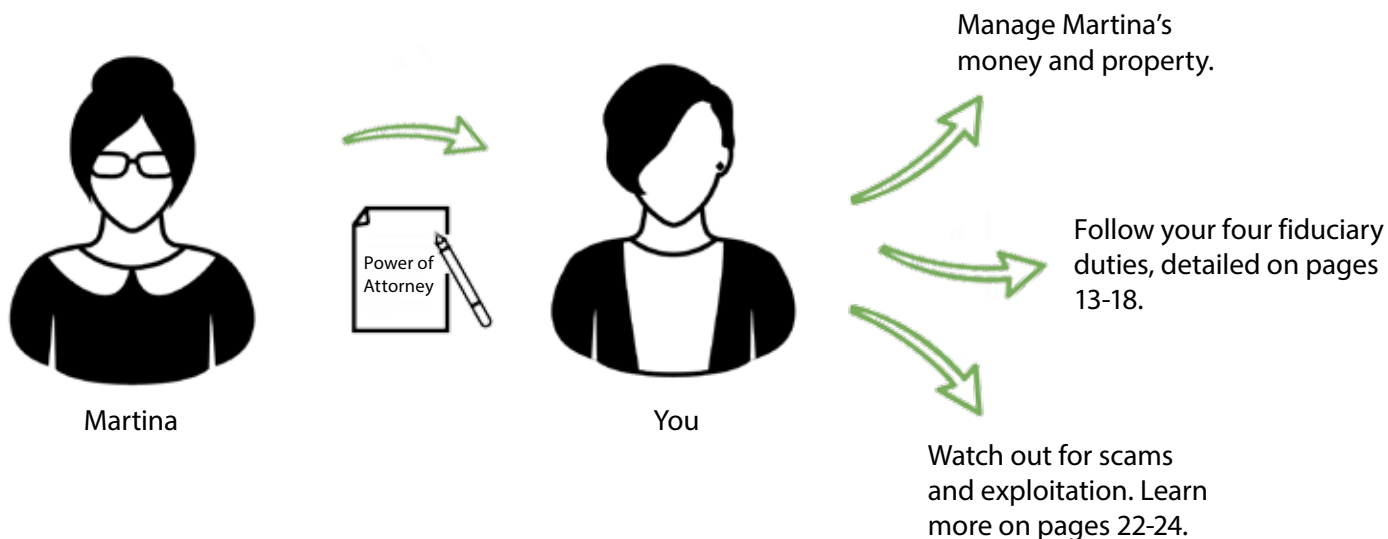
This Guide is for family and friends already serving as an agent under a power of attorney, not for professionals or organizations. If you want to learn about how to become an agent under a power of attorney or other alternatives, this Guide is not designed for you. If you want to learn more about how to make a power of attorney, read Chapters 751 and 752 of the Texas Estates Code or contact an attorney.

This Guide does not give you legal advice and it is not intended to take the place of any training required by law or instruction provided by the court. If you have questions about your duties, talk to a lawyer, read our other guides, and visit the Seniors and the Law webpage at [texaslawhelp.org/article/seniors-and-law](https://www.texaslawhelp.org/article/seniors-and-law).

How you might have become an agent under a power of attorney

Your family member or friend is worried that she will get sick and not be able to pay her bills or make other decisions about her savings and her house. For this Guide, let's call her Martina. Martina has signed a legal document called a **statutory durable power of attorney**. For simplicity's sake, this legal document is referred to as her **power of attorney**. In this document, she named you as her agent and gave you broad power to make decisions about managing her money and property. Martina also made her power of attorney effective immediately, instead of after she gets too sick to pay her bills or make other decisions about her savings and her house.

The law gives you a lot of responsibility as Martina's agent under her power of attorney. You may want to consider having an attorney help you manage this responsibility. You are now a **fiduciary** with **fiduciary duties**.



Let's review some vocabulary

Durable power of attorney	A durable power of attorney is a power of attorney in which a principal names an agent whose power to manage the principal's money and property is not affected by the principal losing the ability to make decisions for himself or herself.
Springing power of attorney	A springing power of attorney is a power of attorney in which a principal names an agent whose power to manage the principal's money and property springs into existence only after the principal becomes incapacitated. The power of attorney may require a written certification of incapacity by a physician.
Statutory durable power of attorney	A statutory durable power of attorney is a durable power of attorney made using the form adopted by the Texas Legislature.
Medical power of attorney	A medical power of attorney is a power of attorney that names an agent who has the power to make certain medical decisions for the principal. A medical power of attorney may be accompanied by a directive to physicians or an out of hospital do not resuscitate ("DNR") order . We do not discuss these documents in this Guide. If you want more information about them, contact the Texas Department of Aging and Disability Services or please flip to page 25 at the back of this Guide and look at the resources in the part titled "Where to go for help."
Principal	The principal is the person who makes the power of attorney.
Agent or attorney-in-fact	An agent or attorney-in-fact is a person who is named in the power of attorney by the principal to act on his or her behalf. That person is a fiduciary under Texas law.



Different types of fiduciaries exist.

In your role as agent, you may act as or deal with other types of fiduciaries.

These may include:

Trustees of a trust: Someone names them to manage money and property.

Representative payees or, for veterans, VA fiduciaries: A government agency names them to manage government money that is paid to someone, like Social Security or VA benefits.

Guardians: A court names them to manage money and property for someone who needs help.

Supporter under a supported decision-making agreement: Someone names them to help make decisions regarding money and property.

For other guides explaining the duties of these fiduciaries, visit protecttheirmoneytx.org.

What is a fiduciary?

Since you have been named to manage money or property for someone else as that person's **agent**, you have a special relationship with that person. Texas law calls that relationship a **fiduciary relationship**, and you are the **fiduciary**. As Martina's fiduciary, you owe her a high duty of good faith, fair dealing, honest performance, and strict accountability. The law requires you to manage Martina's money and property for her benefit, not yours. It does not matter if you are managing a lot of money or a little. It does not matter if you are a family member or not.

The role of a fiduciary carries with it legal responsibilities. When you act as a fiduciary for Martina, you have four basic duties that you must keep in mind:

1. Act only in Martina's best interest.
2. Manage Martina's money and property carefully.
3. Keep Martina's money and property separate from yours.
4. Keep good records and communicate your actions.

As a fiduciary, you must be diligent, trustworthy, honest, and act in good faith. If you do not meet these standards, you could be removed as a fiduciary, sued, obligated to repay money, investigated by law enforcement, or even imprisoned. It is even possible that the police or sheriff could investigate you and you could go to jail. **That's why it's always important to remember: It's not your money!**

Power of attorney questions

What is a power of attorney?

A **power of attorney** is a legal document. Martina made a power of attorney to give you legal authority to make decisions about her money or property. In Texas, a durable power of attorney often is effective immediately and continues to be effective after Martina gets sick or is unable to make her own financial decisions. **Texas law also allows Martina to make her power of attorney effective only after she gets sick.** It is important to read Martina's power of attorney carefully. It will tell you the areas in which you may act on her behalf.

Martina could also make a healthcare power of attorney to name someone to make decisions about her healthcare. We do not discuss healthcare powers of attorney. You can find more information at: <https://guides.sll.texas.gov/powers-of-attorney-medical-powers-of-attorney>.

Can Martina still manage her money and property after signing a power of attorney?

Yes, as long as she is still able to make decisions.

Am I personally responsible for Martina's debts?

No, you are not personally liable for Martina's debts or decisions you make on her behalf unless you act beyond your authority or did not disclose that you were acting as Martina's agent.

Can I manage Martina's digital assets?

A **digital asset** is an electronic record in which Martina has a right or interest. Martina's email, social media, and online bank accounts are common examples. The person or business that carries, maintains, processes, receives, or stores digital assets is called a **custodian**.

If Martina named you as a **designated recipient** of her digital assets with the custodian, then you should be able to manage those assets. The power of attorney might also authorize you to access Martina's digital assets.

When you contact a custodian about managing assets, have the following documents ready:

1. a written request regarding the management of Martina's digital assets;
2. Martina's power of attorney granting you authority over some or all of her digital assets;
3. a certification by you (under penalty of perjury) that Martina's power of attorney is in effect; and
4. a unique identifier (e.g., Martina's username) for the assets held by the custodian and/or evidence linking Martina to those digital assets.

You owe Martina fiduciary duties, including a duty to keep information confidential, when managing her digital assets. Texas law prohibits you from managing Martina's digital assets by impersonating Martina.

Can a power of attorney be changed or revoked?

Martina can take away (or revoke) your authority to act as her agent at any time if she wants to and is still able to make decisions. If she does take away your authority as her agent, you must stop making decisions for her. Martina or you should tell any people or businesses you were dealing with about her decision to take away your authority.



Tell people that you are Martina's agent.

Under Texas law, you need to disclose that you are Martina's agent acting under her power of attorney to avoid personal liability for decisions you are authorized to make on her behalf. As a best practice, if possible, make your disclosure in writing and repeat it each time you act on Martina's behalf. One thing you can do that could help make this disclosure is to add "**agent under Martina's power of attorney**" or "**only in my capacity as agent for Martina**" after your signature when you sign a document on Martina's behalf.

Don't expect others to know what an agent is or does.

They may not understand that you have been named as an agent. They may think that you have more authority or less authority than you really have. You may need to educate them. You could show them this Guide.

What if you think the change was the result of fraud or abuse?

If you think Martina does not understand a decision she made to take away your authority as her agent, then talk to a lawyer, contact Adult Protective Services at 1-800-252-5400, or call the police or sheriff. There is more information on fraud and abuse as well as where you can go for help on pages 21-31 of this Guide.

Do I have to serve as Martina's agent?

No. Just because Martina named you in her power of attorney does not mean that you have to serve as her agent. If you do not want to serve, you should let Martina know so that she can find someone else. But if you decide to serve as Martina's agent, you cannot delegate your authority to act as her agent to anybody else unless Martina gave you that power.

When do your responsibilities end?

Under Texas law, your authority under Martina's power of attorney ends (or may be suspended) automatically if one of the following events occurs:

1. Martina dies.
2. Martina takes away (or revokes) your authority under her power of attorney by, for example, making a new power of attorney that does not grant you the authority to act as her agent and that revokes any previous powers of attorney.
3. A specific event happens that is included in the language of the power of attorney to end your authority or the purpose for the power of attorney is accomplished.
4. If you are married to Martina, the end of your marriage to Martina by divorce or annulment.
5. The appointment of a temporary or permanent guardian for Martina by a court, unless there is a court order affirming and stating the effectiveness of Martina's power of attorney and confirming the validity of your appointment as Martina's agent.
6. A court ordering an end to your authority.

Once your authority to act as Martina's agent ends, promptly notify her bank or other businesses with which you interacted as her agent. You should let these entities know that you no longer have authority to act as Martina's agent.

Remember, even if you can easily pay some of her outstanding bills, you no longer have the authority to do so once you are no longer Martina's agent.

What if you can no longer serve as Martina's agent?

You should step down from serving as Martina's agent if you can no longer serve. Texas law permits Martina to name **successor agents** to serve in your place in her power of attorney. Read the power of attorney and see if Martina named any successor agents. If she did, let that person know that he or she is now Martina's agent. If Martina did not name someone to serve as her agent after you and if she cannot name someone else to act for her, tell a trusted family member or a government agency, such as Adult Protective Services or the Department of Aging and Disability Services. If you cannot act as her fiduciary, she will need someone else to help her.

Four basic duties of a fiduciary

Duty 1: Act only in Martina's best interest

Because you are dealing with Martina's money and property, it is your duty to make decisions that are best for her. This means you must ignore your own interests and needs and the interests and needs of other people.

To help act in Martina's best interest, follow these guidelines:

- **Read the power of attorney and do what it says.** Your authority is strictly limited to what the document and Texas law allow. Follow Martina's directions in the document, even if you have the best intentions in doing something different.
- **Understand when the power of attorney becomes effective.** It may be right away or only when Martina can no longer make her own decisions.

If it is effective only when Martina can no longer make her own decisions, check to see if the document says how you will know when Martina can no longer make her own decisions. If the document does not provide that information, Texas law says that Martina will be considered incapable of making decisions if, because of a physical or mental condition, she cannot:

- » provide food, clothing, or shelter for herself;
- » care for her own physical health; or
- » manage her own financial affairs.

If you need to show that Martina is incapacitated, you should talk to an attorney who can assist you in proving Martina's incapacity.

- **As much as possible, involve Martina in decisions.** Many things can affect your decisions. For example, you might feel pressure from others. Martina's abilities to make decisions might change from time to time. But remember, as Martina's agent, you need to make decisions that are in Martina's best interest. In many cases, you can act in Martina's best interest by making the decision Martina would have made.



Avoid possible conflicts of interest.

Sometimes people have good intentions but do things they shouldn't. Because you are now a fiduciary, you should avoid any conflicts of interest. Here are a few examples of possible conflicts of interest:

Whose car is it?

You used Martina's money to buy a car. You use the car to drive her to appointments, but most of the time you drive it just for your own needs. This may be a conflict of interest.

Should you do business with family?

Martina needs repair work in her apartment. You hire your son and pay him from Martina's money. This may be a conflict of interest, even though the work was needed. It appears that you put your personal interest to benefit your son in conflict with Martina's interests.

Even after it is clear that you must make decisions for Martina, ask her what she wants if she can communicate. If she can't say what she wants, try to find out what she would have wanted. Look at any past decisions, actions, and statements. Ask people who care about Martina what they think she would have wanted. Make the decisions you think Martina would have wanted, unless doing so would harm her. Put her well-being above saving money for others who may inherit her money and property. Make sure she is safe and comfortable, and that her needs are met.

- **Avoid conflicts of interest.** A conflict of interest happens if you make a decision about Martina's property that may benefit you or someone else at Martina's expense. If you benefit from a decision involving Martina's money or property and someone complains about the decision in a lawsuit, you will be required to prove that your decision was fair and reasonable. Under Texas law, all transactions between you and Martina are fraudulent and voidable unless you can show fairness and reasonableness. As a fiduciary, you have a strict duty to avoid conflicts of interest—or even the appearance of a conflict of interest. If a situation comes up where you feel you cannot act in Martina's best interest or there is an appearance that you are not acting in Martina's best interest, you should tell the successor agent named in Martina's power of attorney that you resign from acting as Martina's agent. If Martina did not name a successor agent, contact an attorney for help on this issue.
- **Be extremely careful about borrowing, loaning, or giving Martina's money to yourself (including anybody you are required to support) or others.** Texas law allows Martina to decide if you may make gifts to yourself or others. You do not have the power to make gifts unless Martina gave you that power in her power of attorney and you know that the gift is consistent with what Martina wants. If Martina gave you that power, although Martina's power of attorney could give you more or less power, your gifts to an individual often cannot exceed the amount of annual exclusion allowed from the federal gift tax for the year of the gift (for 2023, \$17,000). Similarly, you may not give yourself or anybody you are required to support an interest in Martina's property unless Martina gave you the power to do that in her power of attorney. You must check her power

of attorney to see whether and to what extent Martina gave you the power to make gifts, and you should ask an attorney before you do something that might result in you or somebody you are required to support getting Martina's property.

Also talk to an attorney if you think Martina's power of attorney gives you the power to make changes to her estate plan, beneficiary designations, or survivorship accounts before you make any of those changes. Remember, you may be liable for a decision you made for Martina if you did not have authority to make that decision.

Even if Martina gave you the power to make gifts, you should be very careful if you use that power, and you should consult an attorney before making a gift. Also, it is good practice to make sure that any gifts you make on Martina's behalf do not increase or complicate Martina's taxes or change her plans to give away her property when she dies. Another good practice is to make sure that any gifts or loans you make on Martina's behalf are in line with what Martina would have wanted. For example, if Martina gave money every year to a charity, the power of attorney may allow you to continue doing that. If you know Martina's estate plan, you need to preserve that plan if it is reasonably possible and in Martina's best interest to do so. Ask an attorney for guidance if you are unsure about this issue.

- **Avoid changing Martina's plans for giving away her money or property when she dies.** There may be rare situations when changing Martina's plans is in her best interest. But you should get legal advice to make sure that the power of attorney and Texas law allow you to make such a change.
- **Be very careful if you pay yourself for the time you spend acting as Martina's agent.** If Martina created her power of attorney on or after September 1, 2017, the form includes an option for her to choose whether she wants you to receive compensation that is reasonable under the circumstances for serving as her agent. If she does not make a choice, the law allows you to receive reasonable compensation. As a best practice, for powers of attorney created at any time, you probably should not pay yourself for the time you spend acting as Martina's agent unless Martina's power of attorney specifically includes a provision allowing for your compensation.

If you decide to pay yourself for your work as Martina's agent, you need to show that your fee is reasonable. You should carefully document how much time you spend acting as Martina's agent and what you did while acting as her agent. If you are worried about the reasonableness of your fee, talk to an attorney about it before you pay yourself using Martina's money.

Duty 2: Manage Martina's money and property carefully

As Martina's agent, you might pay bills, oversee bank accounts, and pay for things she needs. You might also make investments, pay taxes, collect rent or unpaid debts, get insurance if needed, cancel any unneeded insurance, and do other things written in the power of attorney.

You have a duty to manage Martina's money and property very carefully. In doing so, you need to keep a detailed accounting. You must show Martina this accounting if she asks for it. Your accounting should include the money or property you received or paid on Martina's behalf, all of Martina's money and property that you managed, and your decisions regarding Martina's money or property.

Remember, it is important that you use good judgment and common sense. As a fiduciary, you must be even more careful with Martina's money than you might be with your own!

Follow these guidelines to help you make careful decisions:

- **List Martina's money, property, and debts.** To make careful decisions, you need to know what Martina owns and owes. Your list might include:
 - » checking and savings accounts;
 - » cash;
 - » pension, retirement, annuity, rental, public benefit, or other income;
 - » real estate;
 - » cars and other vehicles;
 - » insurance policies;
 - » trusts for which Martina is a beneficiary;
 - » stocks and bonds;
 - » jewelry, furniture, and any other items of value; and
 - » unpaid credit card bills and other outstanding loans.
- **Protect Martina's property.** Keep her money and property safe. You may need to put valuable items in safe deposit boxes, change locks on property, and make sure Martina's home or other property is insured. Make sure bank accounts earn interest if possible and have low or no fees. Review bank and other financial statements promptly. If Martina owns any real estate, keep it in good condition.
- **Invest carefully.** If you are making investment decisions for Martina, talk to a financial professional. The Securities and Exchange Commission ("SEC") provides tips on choosing a financial professional at [sec.gov/investor/alerts/ib_top_tips.pdf](https://www.sec.gov/investor/alerts/ib_top_tips.pdf). Discuss your choices and goals for investing based on Martina's needs and values.
- **Pay bills and taxes on time.** Make sure bills are sent to you. Review bills and bank statements promptly.

- **Buy insurance if necessary** and cancel any insurance policies that Martina does not need.
- **Collect debts.** Find out if anyone owes Martina money, and try to collect it.
- **Take steps to have the power of attorney accepted.** Sometimes banks or other businesses won't do what you, acting as Martina's agent, want them to do. A bank may refuse to accept the power of attorney and want Martina to sign its own form. This is a problem if Martina has lost the ability to act for herself. As soon as you need to act as Martina's agent, contact any businesses, such as banks, or people that she deals with and give them copies of the power of attorney. **Never give away the original document.** Instead, give them certified copies of Martina's power of attorney. To get a certified copy of Martina's power of attorney, find a notary, make a copy of Martina's power of attorney, and ask the notary to certify that the copy is a true copy of Martina's power of attorney. If someone will not accept your authority as Martina's agent, talk to a supervisor. If they still won't accept it, talk to a lawyer.

Duty 3: Keep Martina's money and property separate

Never mix Martina's money or property with your own or someone else's. Mixing money or property makes it unclear who owns what. Confused records can get you in trouble with Martina's family and also with government agencies, such as Adult Protective Services, the police or the sheriff.

Follow these guidelines:

- **Separate means separate.** Never deposit Martina's money or property into your own or someone else's bank account or investment account.
- **Avoid joint accounts.** If Martina already has money or property in a joint account with you or someone else, get legal advice before making any change.
- **Keep title to Martina's money and property in her own name.** This is so other people can see right away that the money and property is Martina's and not yours. Be especially careful about transferring Martina's money or property for less than fair market value.
- **Know how to sign as agent.** Sign all checks and other documents relating to Martina's money or property to show that you are Martina's agent. For example, you might sign "Juan Doe, as agent for Martina Roe." Never just sign "Juan Doe" or "Martina Roe."
- **Pay Martina's expenses from her funds, not yours.** Spending your money and then paying yourself back makes it hard to keep good records. If you really need to use your money, save receipts for the expense and keep a good record of why, what, and when you paid yourself.

Duty 4: Keep good records and communicate your actions

You must keep true and complete records of Martina's money and property as well as each action you take and decision you make as Martina's agent. Your records need to include money or property you received or paid on Martina's behalf as well as Martina's money or property that you managed. Also, you must tell Martina about your actions on her behalf in a timely fashion. Texas law permits Martina to review your records to check up on you.

Practice good recordkeeping habits:

- **Keep a detailed list of everything that you receive or spend for Martina.** Records should include the amount of checks written or deposited, dates, reasons, names of people or companies involved, and other important information.
- **Keep receipts and notes, even for small expenses.** For example, write "\$50, groceries, ABC Grocery Store, May 2" in your records soon after you spend the money.
- **Avoid paying in cash.** Try not to pay Martina's expenses with cash. Also, try not to use her ATM card to withdraw cash or write checks to "Cash." If you need to use cash, be sure to keep receipts or notes.
- **Getting paid?** To be safe, you should only get paid if Martina's power of attorney says so. If you are getting paid, be sure that you charge a reasonable fee. Anytime you get paid, you should make sure that you have detailed records showing what work you did, how much time it took, when you did it, and why you did it.

More things you should know

Other fiduciaries

Co-agents

Martina may have named one or more co-agents to act with you. The power of attorney document may say that you and any co-agent can make decisions alone. If the power of attorney document does not say anything, Texas law says that co-agents may make decisions independently of each other. If you and a co-agent cannot reach an agreement and are required to do so before acting on Martina's behalf, contact an attorney and ask the attorney to help resolve the conflict.

Either way, you must coordinate with any co-agent and share information about decisions. Even if you and a co-agent do not have to agree on all decisions, you cannot let a co-agent do something that harms Martina. If you learn that a co-agent harmed Martina's interests and Martina is incapacitated, you must take actions to protect Martina's interests. You are still responsible for her and must act in her best interest. If you want, you can take the lead in coordinating among Martina's co-agents and other fiduciaries as long as your doing so is in Martina's best interests.

Successor agents

Martina may have named a successor agent to act for her if you are not able to be the agent. A successor agent has no authority if you are still Martina's agent.

If Martina named you as a successor agent, contact an attorney if you believe any of the following to have occurred:

- The person named as Martina's agent breached a fiduciary duty owed to Martina.
- The person named as Martina's agent materially violated or attempted to violate the terms of Martina's power of attorney, which caused Martina to suffer a material financial loss.
- The person named as Martina's agent is incapacitated or otherwise incapable of properly performing his or her duties.
- The person named as Martina's agent failed to properly account for his or her actions.

Other types of fiduciaries

Other fiduciaries may have authority to make decisions for Martina. For example, she may have guardians of her and her property, a trustee for a trust benefitting Martina, a representative payee who handles Social Security benefits, or a VA fiduciary who handles veterans benefits. It is important to know what other fiduciaries exist because they may affect your authority to act as Martina's agent. (For example, your authority as Martina's agent would end if a court appointed a guardian of her estate.) If these other fiduciaries do not end your authority to act as Martina's agent, it is important for you to work with them and keep them informed of actions you take as Martina's agent.

Government benefits

As agent, you cannot manage Martina's government benefits such as Social Security or VA benefits unless you get a separate appointment from the government agency as, for example, a representative payee or VA fiduciary. For more information, contact the government agency or read our guide on government fiduciaries at protecttheirmoneytx.org.

Problems with family or friends

Martina's family or friends may not agree with your decisions about Martina's money and property. To help reduce any friction, follow the four duties described above and the guidelines we've given you.

Sharing information with Martina's family and friends may help. For example, you might want to share any accountings you prepare or summaries of how you've spent Martina's money. It usually is easier to deal with questions about a decision immediately, rather than to deal with suspicion and anger that may build over a long time. Martina may have told you to keep that information to yourself. Or, you may know that certain family or friends may be so difficult that it is better not to share information with them. Use your best judgment.

In the end, you have to make the final decisions. Even when deciding to share information about Martina's money and property, you must always keep Martina's best interests in mind. If family or friends don't agree with your decisions, try to get someone to help sort it out. For example, talk to a family counselor or mediator. See "Where to go for help" on page 25 of this Guide.

Other professionals

In managing Martina's affairs, you may need help from professionals, such as lawyers, brokers, financial advisors, accountants, real estate agents, appraisers, psychologists, social workers, doctors, nurses, or care managers. You can pay them with Martina's money.

If you need help from any professionals, remember these tips:

- **Check professional qualifications.** Many professionals must be licensed or registered by a government agency. Check credentials with the agency. Make sure the license or registration is current and the professional is in good standing. Check the person's complaint history.

- **Interview the professional thoroughly and ask questions.**
- **Review contracts carefully before signing.** Before hiring any professionals, get their proposed plan of work and expected fee. Consult with an attorney before signing a contract with a binding arbitration agreement.
- **Make your own decisions based on facts and advice.** Listen to their advice, but remember you are the decision-maker. You have a duty to choose professionals carefully and if you choose poorly, you could be held personally responsible for their mistakes.

Can Martina get any benefits?

Find out if Martina is eligible for any financial or health care benefits from an employer or a government. For instance, you could help Martina apply for other private benefits such as employer pensions or disability, or public benefits such as Medicaid, housing assistance, or food stamps (now known as Supplemental Nutrition Assistance Program or “SNAP”). Use the National Council on Aging benefits check-up at *BenefitsCheckUp.org*.

The Area Agency on Aging where Martina lives can help you find information. Find the local Area Agency on Aging through the Texas Health and Human Services Commission at *hhs.texas.gov/services/aging*.

Medicaid is complicated.

Get legal advice and be very careful about decisions that may affect Martina’s eligibility for Medicaid, especially before you sell Martina’s home or sign anything that affects Martina’s ownership of her home. Medicaid provides medical assistance and long-term care to low-income people. For more information, visit *hhsc.texas.gov/services/health/medicaid-chip*. To apply for Medicaid, visit *yourtexasbenefits.com*.

Watch out for financial exploitation

Family, friends, neighbors, caregivers, fiduciaries, business people, and others may try to take advantage of Martina. They may take her money without permission, neglect to repay money they owe, charge her too much for services, or just not do things she has paid them to do. These may be examples of financial exploitation or financial abuse. As Martina's agent, you should help protect her. You should know the signs of financial exploitation for five important reasons:

1. Martina may still control some of her funds and could be exploited;
2. Even if Martina does not control any of her funds, she still may be exploited;
3. Martina may have been exploited, and you may still be able to do something about that;
4. People may try to take advantage of you as Martina's agent; and
5. Knowing what to look for will help you avoid doing things you should not do, protecting you from accusations that you have exploited Martina.

Common signs

- **If you think some money or property is missing, or Martina says that some money or property is missing, consider looking for common signs of exploitation or sudden changes in Martina's spending or savings. For example, she:**
 - » takes out lots of money from the bank without explanation;
 - » tries to wire large amounts of money;
 - » uses the ATM a lot;
 - » is not able to pay bills that are usually paid;
 - » buys things or services that don't seem necessary;
 - » puts names on bank or other accounts that you do not recognize or that she is unwilling or unable to explain;
 - » does not get bank statements or bills;
 - » makes new or unusual gifts to family or others, such as a "new best friend";
 - » changes beneficiaries of a will, life insurance, or retirement funds; or
 - » has a caregiver, friend, or relative who suddenly begins handling her money.

- **There may also be an exploitation issue when Martina says she is afraid or seems afraid of a relative, caregiver, or friend.**
- **Or, when a relative, caregiver, friend, or someone else keeps Martina from having visitors or phone calls, does not let her speak for herself, or seems to be controlling her decisions.**

What can you do if Martina has been exploited?

Call the emergency 911 number if Martina is in immediate danger.

Call Texas Adult Protective Services at 1-800-252-5400 or the local police or sheriff. **You are required by law to do this.** If the situation is not urgent or an emergency, you may report the exploitation or abuse online at txabusehotline.org/Login/Default.aspx.

Alert Martina's bank, credit card company, or investment manager if you think those accounts are at risk. Texas law requires them to investigate suspected financial abuse and they may place a temporary hold on transactions if they suspect exploitation. The hold is placed only on a particular transaction. The account should still be usable for other purposes.

If Martina is in a nursing home or assisted living, report it to the Texas Attorney General's Medicaid fraud unit at 1-512-371-4700 or 1-800-252-8011 (main switchboard).

What can you do if Martina has been scammed?

Call the Texas Attorney General, Texas Adult Protective Services, the Office of the Long-Term Care Ombudsman, or a similar agency.

If scammers are in other states or countries, call a federal agency, such as the Consumer Financial Protection Bureau, the FBI, the Federal Trade Commission, or the U.S. Postal Inspection Service.

In both cases...

Consider talking to a lawyer about protecting Martina from further exploitation or getting back money or property taken from her.

Help can come from many places. Each agency and professional has a different role, so you may need to call more than one.

For more information, see "Where to go for help" on page 25.

Be on guard for consumer scams

As Martina’s agent, you should stay alert to protect her money from consumer scams as well as financial exploitation. Criminals and con artists have many scams and change them all the time. They often seek unsuspecting people who have access to money. Learn to spot consumer scams against Martina—and against you as her agent. The Texas Attorney General’s Office maintains a list of common scams, which is available at: [texasattorneygeneral.gov/consumer-protection/common-scams](https://www.texasattorneygeneral.gov/consumer-protection/common-scams).

How can I protect Martina from scams?

Although many consumer scams occur by phone, mail, email, or on the Internet, they also can occur in person, at home, or at a business. Here are some tips:

- **Put Martina’s number on the National Do Not Call Registry.** Go to [donotcall.gov](https://www.donotcall.gov) or call 1-888-382-1222.
- **Don’t share numbers or passwords for Martina’s accounts, credit cards, or Social Security,** unless you know the person you’re dealing with and why they need the information.
- **After hearing a sales pitch, take time to compare prices.** Ask for information in writing and read it carefully.
- **Too good to be true?** Ask yourself why someone is trying so hard to give you a “great deal.” If it sounds too good to be true, it probably is.
- **Watch out for deals that are only “good today” and that pressure you to act quickly.** Be suspicious if you are not given enough time to read a contract or obtain legal advice before signing. Also watch out if you are told that you need to pay the seller quickly, for example by wiring the money or sending it by courier.
- **Never pay up front for a promised prize.** Suspect a scam if you are required to pay fees or taxes to receive a prize or other financial windfall.
- **Watch for signs Martina already has been scammed.** For example, does she receive a lot of mail or email for sweepstakes? Has she paid people you don’t know, especially in other states or countries? Has she taken a lot of money out of the bank while she was with someone she recently met? Does she have a hard time explaining how she spent that money? Is she suddenly unable to pay for food, medicine, or utilities?

Common Consumer Scams

Relative in need Someone who pretends to be a family member or friend calls or emails you to say they are in trouble and need you to wire money right away.

Charity appeals You get a call or letter from someone asking for money for a fake charity—either the charity does not exist or the charity did not call or write to you.

Lottery or sweepstakes You get a call or email that you have a chance to win a lot of money through a foreign country's sweepstakes or lottery. The caller will offer tips about how to win if you pay a fee or buy something. Or the caller or email says you already have won and you must give your bank account information or pay a fee to collect your winnings.

Home improvement Scammers take money for repairs and then they never return to do the work or they do bad work. Sometimes they break something to create more work or they say that things need work when they don't.

Free lunch Scammers invite you to a free lunch and seminar. Then they pressure you to give them information about your money and to invest your money with them. They offer you "tips" or "guaranteed returns."

Free trip Scammers say you've won a free trip but they ask for a credit card number or advance cash to hold the reservation.

Government money You get a call or letter that seems to be from a government agency. Scammers say that if you give a credit card number or send a money order, you can apply for government help with housing, home repairs, utilities, or taxes.

Drug plans Scammers pretend they are with Medicare prescription drug plans, and try to sell Medicare discount drug cards that are not valid. Companies with Medicare drug plans are not allowed to make unsolicited phone calls or send unsolicited mail or emails.

Identity theft Scammers steal personal information—such as a name, date of birth, Social Security number, account number, or mother's maiden name—and use that information to open credit cards or get a mortgage in someone else's name.

Fake "official" mail Scammers send letters or emails that look like they are from a legitimate party to try to get your personal information.

Where to go for help

Local and state agencies

Adult Protective Services Texas Adult Protective Services receives and investigates reports of suspected adult or elder abuse, neglect, or exploitation. To make a report, call the 24-hour, toll-free hotline.

1-800-252-5400

dfps.state.tx.us/Contact_Us/report_abuse.asp

Texas Abuse Hotline:

texaabusehotline.org/Login/Default.aspx

**Area Agency on Aging /
Aging and Disability Resource
Center**

The Texas Health and Human Services Commission administers and supports people who are aging and people with intellectual and physical disabilities. Staff can provide information about aging and disability services and whether there are any support groups for fiduciaries or caregivers.

1-512-424-6500

hhs.texas.gov/services/aging

Texas Attorney General

The Office of the Attorney General has a Consumer Protection Section. It operates the Texas Attorney General's Consumer Protection Hotline.

1-800-621-0508

texasattorneygeneral.gov/cpd/consumer-protection

Better Business Bureau

The Better Business Bureau ("BBB") can help consumers with complaints against businesses.

bbb.org/file-a-complaint

BBB of Abilene--13 Mid-West Texas Counties

1-325-691-1533

bbb.org/local-bbb/bbb-of-abilene

Better Business Bureau Serving the Concho Valley, San Angelo
1-325-691-1533

bbb.org/local-bbb/better-business-bureau-serving-the-concho-valley

BBB serving North Central Texas, Dallas, Lubbock, & Wichita Falls
1-214-220-2000

bbb.org/local-bbb/bbb-serving-north-central-texas

Better Business Bureau in Southeast Texas
1-409-835-5348

bbb.org/local-bbb/southeasttexas

BBB serving the Heart of Texas, Austin, Bryan, Corpus Christi, Fort Worth, Midland, San Antonio, and Waco
1-844-477-1099

bbb.org/local-bbb/bbb-serving-the-heart-of-texas

BBB of Greater Houston and South Texas, Austin, Brazoria, Brooks, Cameron, Colorado, Fort Bend, Galveston, Harris, Hidalgo, Jim Hogg, Kenedy, Matagorda, Montgomery, Starr, Waller, Wharton, Willacy, and Zapata Counties
1-713-868-9500

bbb.org/local-bbb/bbb-of-greater-houston-and-south-texas

BBB Serving Northeast and Central Louisiana and the Ark-La-Texas (including Bowie and Cass County, Texas)
1-318-797-1330

bbb.org/local-bbb/bbb-serving-northeast-and-central-louisiana-and-the-ark-la-tex

BBB El Paso
1-915-577-0191

bbb.org/local-bbb/bbb-of-el-paso

BBB serving Central East Texas, Anderson, Camp, Cherokee, Franklin, Gregg, Harrison, Henderson, Marion, Morris, Panola, Rains, Red River, Rusk, Shelby, Smith, Titus, Upshur, Van Zandt, and Wood Counties
1-903-581-5704

bbb.org/local-bbb/bbb-serving-central-east-texas

BBB of Amarillo, Texas Panhandle
1-806-379-6222

bbb.org/local-bbb/bbb-of-amarillo

Texas Veterans Commission The Texas Veterans Commission is a state-appointed advocate for Texas veterans. The Commission assists veterans to secure benefits rightfully earned in exchange for service in the armed forces.
1-800-252-8387
tvc.texas.gov
info@tvc.texas.gov

Texas Veterans Portal The Texas Veterans Portal is a resource that compiles helpful information from many government agencies to help veterans, their families, and their survivors find the assistance, services, and benefits they need.
1-800-2273-8255 or 2-1-1 (option 1)
veterans.portal.texas.gov

Local Resources Eldercare Locator is a public service of the U.S. Administration on Aging that connects older Americans and their caregivers with information on senior services.
1-800-677-1116
eldercare.acl.gov

Long-Term Care Ombudsman Program Contact the Office of the State Long-Term Care Ombudsman to find state and local long-term care advocates. Ombudsmen identify, investigate, and resolve complaints about long-term care.
1-800-252-2412
apps.hhs.texas.gov/news_info/ombudsman

Texas Association of Mediators Find a listing of local mediators in Texas. Mediation can help resolve disputes and may sometimes be an alternative to legal action.
txmediator.org
(click on "Member Locator" then "View All Members for list of Texas mediators)

Medicaid/medical assistance

Texas Medicaid Information hhs.texas.gov/services/health/medicaid-chip/medicaid-chip-program-services

Texas Health and Human Services Commission yourtexasbenefits.com/Learn/Home

Texas Health Options This state resource can help you understand how to find and use health insurance.
1-800-252-3439
texashealthoptions.com
ConsumerProtection@tdi.texas.gov

**Medicaid Fraud Control Unit
of Texas**

The Medicaid Fraud Control Unit, in the Office of the Attorney General, investigates and prosecutes abuse and fraud by health care providers.

1-800-252-8011 (Main agency)

myfcu@oag.texas.gov

Austin Field Office

1-512-371-4700

Corpus Christi Field Office

1-361-851-8440

Dallas Field Office

1-817-385-2200

El Paso Field Office

1-915-881-2100

Houston Field Office

1-713-225-0691

Lubbock Field Office

1-806-765-6367, ext. 101

Pharr Field Office

1-956-683-7095

San Antonio Field Office

1-210-653-9001

Tyler Field Office

1-903-593-4644

Police or sheriff

Find a law enforcement agency by checking your local directory.

Texas Victim Resource Directory The Texas Victim Resource Directory is a compilation of non-profit and governmental agencies that provide services to crime victims free of charge in Texas.

<https://ivss.tdcj.texas.gov/resource-search/>

Sheriffs' Association of Texas

Find the local sheriff's office.

txsheriffs.org/texas-sheriffs-list

Federal agencies

Numerous federal agencies play a role in combatting fraud and abuse and educating consumers. Contact them for more information.

**Consumer Financial
Protection Bureau** *1-855-411-CFPB*
consumerfinance.gov

Do Not Call Registry *1-888-382-1222*
donotcall.gov

**Federal Bureau of
Investigation** *fbi.gov/scams-safety*

Federal Trade Commission *1-877-FTC-HELP (382-4357)*
consumer.ftc.gov

Postal Inspection Service *1-877-876-2455*
postalinspectors.uspis.gov

Social Security Administration *1-800-772-1213*
socialsecurity.gov/payee

**Department of Veterans
Affairs** *1-888-407-0144*
benefits.va.gov/fiduciary

Legal help

Eldercare Locator Find local programs that provide free legal help to people over age 60 by contacting the national Eldercare Locator.
1-800-677-1116
eldercare.acl.gov

Legal Services Corporation Find local programs that provide free legal help to low-income people on the website of the Legal Services Corporation.
lsc.gov/find-legal-aid

State Bar of Texas	Find free legal clinics and other resources for veterans and their families who otherwise cannot afford or do not have access to the legal services they need on the website of the State Bar of Texas. texasbar.com/Content/NavigationMenu/AboutUs/StateBarPresident/TexasLawyersforTexasVeterans/Resources_for_Vetera.htm
Texas Legal Services Center	Any person in Texas who is 60 years of age or older can call the Legal Hotline for Texans for free legal information. The Legal Hotline for Texans has a wide range of brochures on many different legal topics. The Legal Hotline for Texans also serves persons who are eligible for Medicare, regardless of age or income. Services can be applied for online or over the phone. 1-800-622-2520 tlsc.org
Legal Aid of Northwest Texas	This program serves counties from the Panhandle and the High Plains through the Dallas–Fort Worth Metroplex. It has offices in Amarillo, Plainview, Lubbock, Midland, Odessa, Abilene, Brownwood, San Angelo, Wichita Falls, Denton, Weatherford, Fort Worth, Dallas, Waxahachie, and McKinney. lanwt.org
Lone Star Legal Aid	This program serves Texas counties from the Louisiana and Arkansas border westward to some counties along I-35. It has offices in Texarkana, Tyler, Paris, Longview, Nacogdoches, Beaumont, Conroe, Houston, Galveston, Angleton, Bryan, Belton, and Waco. lonestarlegal.org
Pro Bono Program Listings in Texas	probono.net/oppsguide/search?state=TX
Houston Volunteer Lawyers	Providing free legal aid to low-income individuals by connecting them with lawyers in the private bar who volunteer their time. 1-713-228-0735 makejusticehappen.org
Texas RioGrande Legal Aid	Providing free legal services to low-income residents in 68 counties of Southwest Texas. trla.org
Lawyer Referral Service (LRS) of Central Texas	Reduced fee program for family law matters, uncontested guardianship cases, and drafting simple wills. austinlrs.com

Dallas Volunteer Attorney Program

Providing telephone referral of low-income individuals to volunteer attorneys who provide free legal services. Applicants must be Dallas County residents.

1-214-243-2236

dallasvolunteerattorneyprogram.org

Texas Rio Grande Legal Aid (El Paso, South & West Texas)

Providing free legal services to indigent residents of South and West Texas and to migrant and seasonal farm workers throughout Texas.

1-915-585-5100

Community Justice Program (San Antonio)

Providing free neighborhood-based legal services to individuals who may not otherwise have access to the legal system.

sanantoniobar.org/index.cfm?pg=Applying_For_Aid

Fee-for-service lawyers

This is an American Bar Association-sponsored website that provides information about how to find a lawyer in each state. It also has information about legal resources, how to check whether a lawyer is licensed, and what to do if you have problems with a lawyer.

findlegalhelp.org

Accounting help

American Institute of CPAs

Find a local certified public accountant.

us.aicpa.org/forthepublic/findacpa.html



Find this and the rest of the reports in the series at protecttheirmoneytx.org

For more information on the work of AARP in Texas, visit aarp.org/tx

To learn more about Texas Appleseed, go to texasappleseed.org