

# Incapacity Checklist



## RECOMMENDED ACTIONS IF TRUSTEE BECOMES INCAPACITATED:

- Avoid entering contracts for anything while you are still highly emotional state and avoid spending or lending large sums of money.
- If the Trustee was a Carmen B Marquez PC client, locate their “Estate Planning Portfolio.”
- Contact the Successor Trustee(s) of the Trust, their agent under their Durable Power of Attorney (DPA), and their agent under their Advance Health Care Directive (AHCD). They may all be the same person.
- Have the Successor Trustee Contact us and make an appointment to review the estate planning documents. We will assist the Successor Trustee with the following:
  - Obtain any necessary doctors’ declarations.
  - Take the legal steps necessary to assume the position of Trustee of the Trust.
- Arrange for the care of members of the immediate family. This may include getting in-home living assistance or childcare for minor children.
- The Agent under the AHCD should make healthcare and treatment decisions as necessary and appropriate.
- If you do not reside with the Trustee, change their mailing address to yours so that you receive their mail. You will need to complete a Change of Address Form and submit it to the U.S. Postal Service. It may be done online through [www.usps.com](http://www.usps.com). The address change is only valid for a few months, so as mail comes in, notify any senders to mail future correspondence directly to your address.
- Once you have taken over as Trustee, you should notify the next Successor Trustee as well as the beneficiaries of the Trust.
- Establish immediate control over the assets in the Trustee’s home. You may need to place valuables in a safe and may even need to change door locks to prevent “beneficiary raids.” You should also write down an inventory of personal items, just in case beneficiaries start to borrow items.
- Assets already in the name of the Trust need to be re-titled to show you as the Trustee of the Trust.
- Notify the Trustees Financial Planner and Accountant or Tax Preparer or obtain new ones to assist you as Trustee. A new taxpayer identification number may be needed unless you are the Grantor’s spouse and were already acting as Co-Trustee.
- Telephone the Trustee’s employee benefits office with the following information: Name, Social Security Number, whether the incapacity was due to accident or illness, and your name and address. The company can then begin to immediately process any benefits to which the Grantor may be entitled.
- Look into any available federal and state benefits, such as Supplemental Security Income (SSI), state disability income (SDI), Medicare, and Medi-Cal. We will be able to help you with this. If the Trustee was ever in the service, they may also have available benefits through the Veteran’s Administration, which you should check into.
- Notify appropriate accident or disability insurers. Please give them the same information as with the Grantor’s employee benefits office and ask what other information or forms are needed to process the claim. If the incapacity was a result of an accident where a third party was involved (i.e., a car accident), you might wish to consult an attorney about possibly pursuing a legal claim against them.
- Actively take over management of the Trust property. As Trustee, you must manage the trust assets to the same degree as a reasonable, prudent person. You are permitted to delegate some of these responsibilities to professionals and pay their reasonable fees from the Trust.
- Keep all liability, fire, homeowners, and personal property insurance policies in force and effect.
- Consult with an accountant at your earliest convenience to help you establish a recordkeeping system.
- Refrain from making loans, gifts, or distributions to or for the benefit of anyone other than the Grantor.