<u>Fiduciary Duties for Members of a Nonprofit's Board of Directors</u>

The Farlex Legal Dictionary defines a fiduciary as "*An individual in whom another has placed the utmost trust and confidence to manage and protect property or money. The relationship wherein one person has an obligation to act for another's benefit.*" http://legal-dictionary.thefreedictionary.com/fiduciary

Each member of a nonprofit organization's Board of Directors is a fiduciary. Every fiduciary has the three primary legal duties known as: 1) the duty of obedience, 2) the duty of care, and 3) the duty of loyalty. Two other closely related duties are: 1) the duty of good faith and fair dealing, and 2) the duty of disclosure.

The duty of obedience requires each Director to carry out their duties according to, and under the authority of, federal and state law and the governing documents of the organization (usually referred to as Bylaws). This means the Board of Directors are to ensure an organization complies with all laws governing the organization and remains committed to its stated purpose.

The duty of care requires each Director to use appropriate care and diligence when acting on behalf of the organization. They are to act with reasonable prudence when carrying out their duties to achieve the best interests of the organization. This means each Director is to participate in the planning and decision making of the organization and they are to do so using sound and informed judgment.

The duty of loyalty requires the Board of Directors to make decisions based upon the best interests of the organization. This means the Directors are to put the organization's interests above their own personal or business interests.

The duty of good faith and fair dealing requires the Directors to act honestly, with fairness and in good faith when carrying out all of the organizations obligations. The "business judgment rule" states a director(s) may not be held liable for business decisions made with reasonable care and in good faith yet result in harm to the organization.

The duty of disclosure requires the Directors to give full and fair disclosure of material facts which are essential to making informed decisions by the voting members of an organization. This means the Board of Directors are required to fully inform an organization's voting members/stakeholders (known as shareholders in a for profit organization) all material facts, positive and negative, so they can make decisions based on all available information.

The duty of disclosure also requires any Director to disclose any actual or potential conflict of interest which may arise between their personal or business interests and the interests of the organization.