

has prepared a health care directive, a durable power of attorney for health care matters and a written declaration regarding organ donations. In addition, these emergency cards not only identify the card holder, but also the names and phone numbers of their appointed health care agents. In a health emergency, time is of the essence.

Similarly, consider creating a *Pet Card* to ensure, upon your incapacity or death, that prompt attention and care is given to your pet. At a minimum, the *Pet Card* should contain your name, key information about your pet (e.g., name, type, location, special care needs and veterinarian) and contact information regarding the appointed trustee and caretaker of your *Pet Trust*.

Final Thoughts

Your pet has been a loyal companion and friend, whether it has feathers, fins or fur. Unfortunately, if you have no plan (or plan to leave money to someone) for their future care, then you are simply leaving the future care of your pet to chance. Alternatively, a properly prepared and adequately funded *Pet Trust* can replace this element of chance with the requirements of law ... providing greater peace of mind. And there is no better time than today to ensure that your pet will be okay even if you are not.

1. Survey, LexisNexis Martindale-Hubbell, 2004
2. Ibid.
3. Ibid.
4. Source, www.estateplanningforpets.com

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PET TRUST PLANNING 101



Do any of your closest *friends* have feathers, fins or fur? What will happen to them if you are no longer around? Although it cannot replace you, a Pet Trust can provide your *friends* with love and care for the rest of their lives.

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An estimated 500,000 pets are euthanized each year by shelters and veterinarians when their owners predecease them.¹ Do any of your closest friends have feathers, fins or fur? Are you also responsible for their room, board and ongoing veterinarian care?

Consider this: If something untoward were to happen to you today, what would happen to your feathered, finned or furred friends tomorrow?

What arrangements have you made for these *friends* (some people refer to them as *pets*, so we will use the terms interchangeably) in your Life & Estate Plans? Unfortunately, if you are like most Americans (58 percent), you do not have even a basic Last Will and Testament. Not surprisingly, most Americans also have neither health care directives (69 percent) nor powers of attorney for either health care or financial matters (74 percent).²

Pet Trust Anatomy

Given these numbers, it should come as no surprise that most Americans (79 percent) have not created a traditional *trust* as part of their estate plan.³ (Traditionally, a trust is a legal arrangement providing for the ongoing management of assets, sometimes for multiple generations of beneficiaries.) Whether you are among the minority who have completed comprehensive estate planning, or among the majority who have yet to do so, be aware that a new type of trust may be an appropriate adjunct to traditional planning. More than 30 states now have laws permitting the creation of *Pet Trusts* and a growing number are considering them.

A *Pet Trust* may be created under a Last Will and Testament or a Revocable Living Trust. Either way, there generally are four parties to any Pet Trust: the *trustee*, the *caretaker*, the *pet* (one or more) and the *remainder beneficiary*. In addition, a *Pet Trust* should have *property* contributed to it to adequately fund the lifelong care of your pet.

The *trustee* may be an individual, a corporate fiduciary, or both. As with most choices, there are

advantages to each approach. The same is true with the *caretaker*. However, it may be prudent to ensure that the trustee and the caretaker are *not* one in the same.

While a trusted friend or family member likely knows your pet better than any outsider, whenever money is involved ... there also lurks the temptation for mischief. For example, there have been reported instances where pets have died, only to be replaced by *look-alikes* so the trustees/caretakers continued to receive compensation for their services. Also, remember to appoint successors in case a primary trustee or caretaker is unwilling or unable to serve.

The *remainder beneficiary* is the party designated to inherit any remaining trust property upon the death of the last surviving pet beneficiary. Typically, the remainder beneficiary is a family member, friend or charity.

Setting aside the appropriate amount of *property* to fund your *Pet Trust* is essential to its success. For example, a horse not only eats like a horse, but has an average life expectancy of between 25 and 30 years (or more than 40 years, with tender loving care). By contrast, a Great Dane has a much smaller appetite and a much shorter average life expectancy of between seven and 10 years.⁴ Accordingly, you would need to set aside a significantly larger nest egg to fund the future care of a horse than for a Great Dane.

So, just how much of a *nest egg* do you need to set aside to fund the future care of your pet? The amount depends on two variables – the life expectancy of your pet and the projected cost of care. Your veterinarian is an excellent resource when estimating the life expectancy of your pet, just as your check register is an excellent resource

to calculate the actual cost of annual care. Once you know the likely remaining life expectancy of your pet and the historical cost of care, simple multiplication is all that is needed to determine the amount of trust property required to provide the appropriate nest egg. You may want to err on the conservative side, too, since inflation will affect the future cost of care for your pet.

Refrigerator Notes

It is not unusual for the parents of small children to arrange for an occasional evening out – alone. Before leaving for their date, however, many parents post rather detailed notes on the refrigerator containing such child-specific instructions as authorized snacks, favorite games and the appointed bedtime hour. Just like these parents, consider leaving written instructions for the trustee and caretaker of your friend. You can update these written instructions

as necessary without formal changes to your Pet Trust (or additional legal fees!). In your instructions, tell the trustee and caretaker *everything* about your friend, from favorite daily rituals (e.g., walks and feeding) to how your friend seeks shelter away from the annual pop-pop-pop of the neighborhood fourth of July firecrackers.

Emergency Cards

Estate planning attorneys oftentimes prepare Health Care Emergency Cards for their clients to carry in their wallets or purses at all times. Why? If a client is ever involved in an accident, or suddenly is taken ill, then the emergency card will let medical providers know that the client



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