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Planning for Your Pets' Care When You Can No Longer Care for Them

It happens every day. A person contacts the League about a companion animal who has nowhere else to go. When asked why they are surrendering the pet, people sometimes explain that the companion animal's guardian just passed away and no relative or friend could take the cat or dog. Without a doubt, these folks are doing the best they can for the animals, but the sad fact is that these pets have just lost the most important people in the world to them and now they are in a strange place, surrounded by an unfamiliar environment.

Animals mourn the loss of their guardians, and being brought to a shelter makes life even more stressful for them. With a little planning, these animals' fates could have been much less complicated, upsetting, and uncertain.

Introduction

When you adopt animals from a shelter, you provide food, a home, medical care and love for your new family members. You commit to them for their lifetimes and focus on making their lives safe and comfortable. Since the lifespan of a dog or cat is less than that of people, many guardians do not think about what would happen to their beloved pets in the event of the guardians' disability or death. Yet if you are going to provide for your companion animals for their lifetimes, it is advisable to make plans for them in the event that something happens to you—their lifeline.

This fact sheet discusses how to plan for your companion animals' futures and outlines the advantages and disadvantages of different strategies. Our hope is that this information will encourage guardians to make appropriate plans for their pets. However, this fact sheet is not a substitute for legal advice and should not be taken as such.

Ensuring Temporary Emergency Care for Pets

Emergency Caregivers

Unfortunately, accidents, sudden illnesses or other emergencies affecting pets' guardians may occur at any time, making it impossible for guardians to care for their animal companions. Because these events are often accompanied by confusion and stress, the needs of pets may be overlooked as family members and friends scramble to look after the pets' guardians and their affairs.

Preparing for this kind of situation ensures that if something unfortunate should occur, your pets will be cared for. The League recommends that pet guardians:

1. Select a minimum of two responsible and reliable friends or relatives to serve as temporary caretakers of your pets in the event of an emergency. Prepare a packet of information for them that includes information on your pet's feeding and care, the name of your veterinarian, and keys to your home.
2. Carry information in your wallet that lists the names and phone numbers of your emergency pet caregivers.
3. Post changeable "In Case of Emergency" notices on doors and windows of your home to tell emergency personnel how many pets you have during a home fire or other event. Keep these stickers updated so that the numbers of pets on the form is always current.
4. Post a notice inside your front and back doors listing emergency contact names and phone numbers, so that emergency-response personnel may contact them, if need be.
5. Inform your friends, neighbors, and relatives of the number of pets you have and your plans for them. Share the names and contact information for your emergency caregivers with them. Emergency caregivers should also know how to contact each other.

Powers of Attorney

Powers of attorney authorize an individual to conduct your affairs while you are alive but unable to manage these matters for yourself. These arrangements are very common. You may have already designated a significant other, relative, and/or friend as your agent. Powers of attorney take effect as you specify, either immediately upon signing or when you become mentally or physically incapacitated. They can remain in effect as long as you are incapacitated or until you pass away.

You may add specifications in your power of attorney agreement that authorize your agent to care for your pets, spend money for their care, or even place them with a permanent caregiver.

It is always wise to add to your agreement one or more people to act as an alternate agent in case the first agent cannot serve.

Providing Long-Term Care for Pets

The best way to provide for your pets' future in the event of your death is to make a formal arrangement in a last will and testament or a separate trust agreement that sets aside money to provide for your pets' care and guardianship.

Last Wills and Testaments

A last will and testament (“will”) is a legal document that specifies how and to whom your assets will be distributed after your death. It may also include testamentary trust provisions stating how your pets will receive care and by whom.

It is extremely valuable to have a will; however, testamentary trusts established by wills have some disadvantages with regard to your pets’ immediate future. In order to become effective, your will would have to go through probate court after your death. This could take weeks or even months, and if anyone contests your will, it could take even longer. Thus, your instructions for your pets may not become effective for quite a while. Because of this delay, it makes sense to create another document that will provide for your pets right away. Further, a testamentary trust does not make provision for your pets if you become disabled and unable to provide care for them.

Inter Vivos Trusts

Unlike a will, an inter vivos trust (a trust created while you are alive) does not have to be probated to become effective. An inter vivos trust agreement takes effect immediately upon execution and may be used in the event of your death, illness, or lack of capacity to care for yourself.

When you create a trust, you can set aside funds for your pets’ care. You designate a trustee to manage the funds and you decide when the trust becomes effective. Trusts may be drafted to omit certain assets from the probate process, so that money is readily available for the care of your pets.

Many states now have legalized what are known as pet trusts, which allow guardians to designate assets specifically for the care of a pet. This more formal process for providing for a pet after a guardian’s death can even be monitored by the court in many cases. It allows guardians to set up a system of checks and balances, assigning one person to disburse funds to the pet’s caretaker, whose care would be monitored by the person releasing payment from the trust. In some states, the court can appoint an independent third party to monitor the actions of the parties controlling the funds and providing care for the animals.

The League offers an additional fact sheet on pet trusts, which provides general information on these instruments with specific discussion on how these trusts work in the three jurisdictions comprising the League’s primary service area: the District of Columbia, Maryland, and Virginia.

Professional Assistance Is Needed

To determine which type of formal arrangement is best for your situation and your pets’ care, you should seek guidance from an attorney who understands and appreciates your desire

to provide the best possible care for your pets. An attorney experienced in drafting these documents is able to help you make arrangements that are best for you.

Also, discuss with your advisor the amount of money you plan to earmark for the care of your pets. Designating a sum that could be considered excessive may cause potential heirs to contest the plan.

Make Personal Arrangements

As wise as it is to have legal documents such as powers of attorney, wills, or trusts that care for your pets after your death, there is no substitute for making direct arrangements with the individual or individuals you want to look after your family members who just happen to be animals. Your plans should be as specific as possible for the benefit of your pets—but not so specific that carrying out your wishes becomes an unrealistic burden.

As you plan, think carefully about whom you would want to take custody of your pets in the event of your death or some other dire circumstance. Consider whether all of your pets should be kept together and go to one person, or whether it makes more sense for them to be cared for by different individuals. Keeping together pets who are bonded with each other is generally less stressful.

When considering caregivers, think about adult children, parents, siblings, partners or friends who know your pets and who have successfully cared for them or their own pets. You should also name alternate caregivers in case your designated caregivers are unable to take your pet, because people's living situations may change by the time they are needed to step in. Bear in mind that the people you choose will have complete control over all aspects of your pets' care, including life-or-death decisions. Guardians should periodically check in with their designated caregivers to make sure that their contact information is updated in their plans and that the intended caregivers are still willing and able to accept the pets.

Another option is to direct your executor or personal representative in your will to place your companion animals with another person or family. Finding a home may take weeks or even months, so one should line up temporary foster caretakers for the interim. Your caregiver will probably be grateful if you develop a list of criteria to be used for screening potential adopters.

Your estate plans should also authorize the executor to spend money from your estate for the temporary care of your companion animals and for the costs of finding a new home (transportation, advertising, etc.).

Animal Shelters and Sanctuaries

If you do not have friends or relatives who you think would be able to take on the responsibility of caring for your pets if you are no longer able to do so, another possibility may be to place your pets with an animal shelter or sanctuary.

Many animal shelters will accept your pets with the goal of finding them new homes; however, few have the space or resources to care for a pet indefinitely. Nor would they want to; most shelters agree that animals should share a home with a human companion. Confining an animal to a run or cage for a long time can lead to health and/or behavior problems—and make the animal stressed and unhappy. Furthermore, shelters cannot guarantee that they will be able to find a permanent home or homes for your pets.

If you decide to place your pets with a shelter, make sure that it is a well-established non-profit organization that has a praiseworthy record of placing animals in responsible homes.

Across the country, many animal sanctuaries offer to care for deceased people's companion animals for the remainder of their lives. These sanctuaries do so in exchange for a fee, donation or bequest. Be cautious about this type of arrangement, because your pets may be confined to cages, possibly even for the rest of their lives. This may prove unbearable for some dogs or cats.

Before determining that this course of action is right for your pets, you should make several visits to any shelter or sanctuary you are considering and make these arrangements well in advance. Be sure you are shown the entire facility and be wary of any organization that has "off-limits" areas. Find out how the animals are cared for, where they are confined, when they are socialized and exercised, and what policies and procedures are in place at the organization regarding care and placement with another guardian. Learn about the individuals overseeing and running the organization. Most importantly, ask about the shelter's adoption placement rate. Also, consider what might happen if the organization were to suffer loss of revenue or staff.

You may wish to check the organization's business records and research the backgrounds of prominent staff, since some sanctuaries have been fraudulently run. Be diligent with your research and ask for references. If the sanctuary is accepting numerous animals, it may not take long before even a well-meaning person(s) can become overwhelmed, resulting in a tragic situation for the animals.

Keep in mind that sanctuaries are almost wholly unregulated and that almost anyone, regardless of experience or intent, can found a sanctuary. If you are contemplating a large payment to such an organization, the sanctuary should be comfortable with your level of scrutiny.

Sample Language for Your Estate Plans

You can provide this language, which was written by the Humane Society of the United States and is reprinted here with its permission, to your attorney. The League's development office can provide this language electronically so it can be copied and pasted into a document.

{Article Number} A. As a matter of high priority and importance, I direct my Personal Representative to place any and all companion animals I may own at the time of my death with another individual or family (in a private, non-institutionalized setting) where such companion animals will be cared for in a manner that any responsible, devoted pet owner would afford his or her pets. Prior to initiating such efforts to place my animals, I direct my Personal Representative to consult _____, D.V.M. (currently at the _____ Hospital), or, in the event of Dr. _____'s unavailability, a veterinarian chosen by my Personal Representative, to ensure that each companion animal is in generally good health and is not suffering physically. In addition, I direct my Personal Representative to provide any needed, reasonable veterinary care that my companion animals may need at that time to restore the animals to generally good health and to alleviate suffering, if possible. Any animals not in generally good health or who are so suffering and whose care is beyond the capabilities of veterinary medicine, reasonably employed, to restore to generally good health or to alleviate suffering shall be euthanized and cremated, and the ashes disposed of at the discretion of my Personal Representative. Any expenses incurred for the care (including veterinary services), placement or transportation of my animals or to otherwise effect the purposes of this Article _____ up to the time of placement, shall be charged against the principal of my residuary estate. Decisions my Personal Representative makes under this Article _____ -- for example, with respect to the veterinary care to be afforded to my companion animals and the costs of such care -- shall be final. My intention is that my Personal Representative have the broadest possible discretion to carry out the purposes of this paragraph.

The League's Role

Unfortunately, the League does not have the space or funding to take in pets for the remainder of their lives. Nor would this be consistent with our mission of rescuing, rehabilitating, and rehoming animals. However, the League does accept surrendered cats or dogs to be placed up for adoption when space permits.

While we appreciate any charitable donation made either before or at the time an animal is surrendered, the League cannot make any *quid pro quo* guarantees about a specific outcome for relinquished pets. We can guarantee only that any animal in our custody will be treated humanely and receive loving care from both our shelter and hospital staffs.

We believe that the companion animals at the League have an excellent quality of life while they are in our shelter; however, nothing can compare to a caring home, even if that home does not include their former beloved guardian.

The League requires that an individual surrendering any companion animal be duly authorized to do so. In the case of temporary caregivers or individuals with power of attorney, a

copy of the relevant documentation should be brought to the League at the time of surrender. If the League accepts the companion animal, every effort will be made to find that dog or cat a permanent, loving home—something the League has accomplished for dogs and cats since its founding in 1914.

There are cases, unfortunately, when any shelter may determine that it cannot safely or humanely house and place certain animals. The League is no exception. In such cases, animals are euthanized. These decisions are made only after careful consideration of the animal's welfare and quality of life.

As this document suggests, we highly recommend having extensive plans for your pets, so that their futures are as certain and stress-free as possible. You may also want to make your intentions clear to multiple parties in your life. By discussing your plans for your pet with several relevant people and providing them with copies of your plans, a number of folks close to you will be clear about your exact wishes for your pets. This information will allow them to take action or inform them that others should be taking action to ensure that your plans for your animal friends are realized if something unfortunate happens to you. Plans that are developed by an attorney, as well as properly signed, witnessed, and notarized, are most likely to be successful and lead to less uncertainty among your survivors.

Additional Reading

For additional information on this topic, please see the League's fact sheet on pet trusts. We also have instructions on how to leave a gift to the League in your will or estate plan, as well as how to make the League a beneficiary of a retirement plan. All of this information is available online via warl.org/plannedgiving or from the League's development office at development@warl.org or 202-375-7756.

You may also wish to contact the Humane Society of the United States and ask for its publication "Providing for Your Pet's Future Without You," which is available online at humanesociety.org/petsinwills.