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# **GOING TO THE DOGS:**

## **ESTATE PLANNING FOR YOUR PETS**

**By Charlotte M. Mitchell**

## *Estate Planning for Your Pets*

### **Short term planning steps**

- **Emergency Caregivers**: Identify two individuals who can take care of your pets if you're not available. Caregivers should have keys to your house, instructions on care, and information on long term care for your pets, if that's necessary.
- **Wallet Card**: List your pets (number, names, some way of identifying each one) on a card for your wallet. Flip side of the card should list names, contact information (day/evening phone, cell) for emergency care givers, also your vet's name, the pet sitter (if you have one), or the boarding kennel if that's appropriate.
- **Fact Sheet**: List the same information that's on the Wallet Card. Also list instructions for diet, medication, special quirks, anything that would be important.
- **Power of Attorney that includes pet care**: Most forms for financial powers of attorney don't include authority to spend money for your pets. The language can be added to the standard form by your attorney.
- **Identification**: Identify your pets specifically, by color, sex, microchip, DNA, vet records, or other appropriate means.
- **Co-Owners**: If you have a co-owner, be sure that you and your partner agree on the caregiver, provisions, and future plans for your pets.

### **Long term planning steps**

- **State Law**: Under many state laws, pets are considered tangible personal property, like furniture or cars. Consider including a separate provision in your will for your pets.
- **Caregiver**: Identify an individual who will adopt your pets, if you can't take care of them. Also identify a backup, if your first choice isn't able to take your pets.
- **Executor or Personal Representative**: If you have a separate provision for your pets, your executor or personal representative will be responsible for carrying out your instructions.
- **Gift to Caregiver**: Consider leaving a gift to the individual, to provide for the additional cost of adopting your pets.
- **Honorary Trust**: Consider setting up an "honorary" trust, either in your will or in a separate document, naming an individual who will inherit your pets, and leave money to the individual for the care of your pets. The honorary trust *must be in writing*.
- **Trust for your Pets**: Some states allow you to set up a trust for your pets.
  - Someone other than the caregiver (a trustee) can be sure the money in the trust is used for your pets.
  - Outline in the trust whether the caregiver should receive a salary, how the trust money should be spent, and what the rules are for dispensing the trust assets.
  - Make sure that the trustee checks on the pets to see whether they're receiving good care.
- **Organization**: Consider naming an organization who will receive your pets, and offer them for adoption. Leave some money to the organization, with instructions that the money be used for your pets' care. Any money left over can go to the organization.
- **Sanctuary or Retirement Home**: Consider leaving your pets to a "pet retirement" home or pet sanctuary.
- **Ultimate Disposition**: Leave instructions for disposition of your pets after they have passed away.

- Money Left Over?: Regardless of the arrangement, make sure that you leave instructions for any money left over after the pet(s) have died. You can name the caregiver or an organization such as the Poodle Club of America Foundation to receive any leftover funds.

### **Information for the Caregiver**

- Identify any specific behavior or habits of your pet
- Is your pet basically an indoor or outdoor pet?
- Identify the brand of food and other dietary information
- What are the usual feeding time schedules and the amount of food for each meal?
- Identify any special medications, supplements, or other dietary needs
- Identify the location of all medical records, inoculation and spay/neuter certificates
- Identify the daily routine for your pet, including the specific (if any) locations for sleeping, eating, baths, grooming, walking or exercise and interaction with other local animals, special play activities, how to calm your pet when it is disturbed or in fear and adaptations to travel.
- Identify the favorite toys or play objects for your pet.

### **Transferring Dogs after the Owner/Co-Owner has died**

- If the decedent's estate is under probate court jurisdiction, the AKC needs a copy of the certificate issued by the probate court naming the Executor or Representative for the decedent's estate.
- AKC also needs the "Statement of Legal Rights" form completed. See [www.akc.org/pdfs/ASCU03.pdf](http://www.akc.org/pdfs/ASCU03.pdf)
- If there's no Executor or Representative appointed, and instead the next-of-kin is handling the decedent's estate, the AKC needs only the "Statement of Legal Rights" form.

### **Making a Charitable Gift in Your Will**

- If you name a charity in your estate plans, it's wise to make sure that the charity is recognized as a tax-exempt organization by the IRS. If the organization is a 501(c)(3) organization, a gift will qualify for either an income tax or an estate tax deduction (or both).
- A gift to a charity can be either a specific dollar amount or a percentage of your estate.
- The gift can be for a specific purpose, or it can be for the charity's general use. From the charity's point of view, a gift without any strings is the most useful, as an unrestricted gift allows the charity to spend the money where it's most needed.
- To donate to the PCA Foundation, you should refer to "The Poodle Club of America Foundation, Inc."

### **Additional Resources**

- Poodle Variety: The magazine reproduced an article by Victoria Spencer, Beshka Afghans. The article is available at [www.beshkaafghans.com](http://www.beshkaafghans.com).
- Poodle Review: The January/February 2004 issue of *Poodle Review* included an article by Lori Chapek-Carleton called "Where will your pets go?"
- AKC Gazette: The June 2008 Gazette had an article entitled "Estate Planning For Breeders" by Lisa M. Curry, Esq. See also [www.lawfordogs.com](http://www.lawfordogs.com)
- Professor Gerry W. Beyer: Professor Beyer is on the faculty of Texas Tech University School of Law. His website is [www.ProfessorBeyer.com](http://www.ProfessorBeyer.com). He's published a number of articles about estate planning for pets, and includes sample language which may be useful for your estate planning advisor.

## SAMPLE LANGUAGE

### Sample Will Provision for Honorary Trust

I, (name of pet owner), leave any pets I may own at the time of my death to (name of Caregiver), together with the sum of \$\_\_\_\_\_, to be used by him/her for the care and maintenance of such pets. In the event that (name of Caregiver) has predeceased me or cannot take my pets, then I leave them to (name of alternate Caregiver), together with the sum of \$\_\_\_\_\_ for their care and maintenance. In either event, should there be any monies remaining out of the \$\_\_\_\_\_ after the last of my pets to die, such balance shall pass outright to (the party taking care of my pets)(organization).

### Conditional Bequest to Caregiver

I hereby give my pet (Name of Pet), (Description of Pet) to (Name of Caregiver) and the sum of \$\_\_\_\_\_, which shall be expended for the care of my pet during its remaining lifetime; provided, however, that this gift shall lapse if my pet is not living at the time of distribution according to this provision or if (Name of Caregiver) does not undertake the use of the funds gifted herein for the care of my pet.

### Will or Trust Provision

**A. Placement of My Pets.** As a matter of high priority and importance, upon my death I direct my (Executor)(Trustee) to place any and all pets I may own at the time of my death with another individual or family member (that is, in a private, non institutionalized setting) where such pets will be cared for in a manner that any responsible, devoted pet owner would afford to his or her pets. Prior to initiating such efforts to place my pet(s), I direct my (Executor)(Trustee) to consult a veterinarian chosen by my (Executor)(Trustee), to ensure that each pet is in generally good health and is not suffering physically. In addition, I direct my (Executor)(Trustee) to provide any needed, reasonable veterinary care that my pet(s) may need at that time to restore my pet(s) to generally good health and to alleviate suffering, if possible. Any pet(s) not in generally good health or who is 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, cremated, and the ashes disposed of at the discretion of my Trustee. Any expenses incurred for the care (including the cost of veterinary services), placement, or transportation of my pet(s), 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) (this Trust). Decisions my (Executor)(Trustee) makes under this Article, for example, with regard to the veterinary care to be afforded to my pet(s) and the cost of such care, shall be final. My intention is that my (Executor)(Trustee) have the broadest possible discretion to carry out the purposes of this paragraph.

**B. Distributions for the Benefit of My Pet(s).** On my death, my (Executor)(Trustee) shall pay to my Caregiver, hereinafter named, such amounts that, in the sole and absolute discretion of my (Executor)(Trustee), determines to be necessary or advisable for the health, care, and welfare of my Pet, including, but not limited to, food, veterinary care, and/or pet insurance, grooming, toys and recreational activities, and temporary boarding or pet sitter fees.

In exercising such discretion, it is intended that the (Executor)(Trustee) will maintain my Pet in the same standard of health, care, and welfare as I would during my lifetime.

***Consider making a monthly distribution to the Caregiver of a fixed amount, contingent on the Caregiver providing proper care.***

**B. Humane Care and Visitation.** The (Executor)(Trustee) shall visit the Caregiver's home at least (monthly) (quarterly) (annually) to make certain my Pet is receiving proper care. If in the (Executor's)(Trustee's) sole discretion, my Pet is not receiving humane care as defined in paragraph A of this Article, the (Executor)(Trustee) shall immediately remove my Pet from the Caregiver's possession and deliver my Pet to the Successor Caregiver. I may leave a letter of instructions concerning my Pet to guide my (Executor)(Trustee) in arranging appropriate care. I ask that my (Executor)(Trustee) consult with my Veterinarians or care providers that I have used during my lifetime to supplement the letter of instructions, to determine what care and expenditures I deemed reasonable during my lifetime for each pet, and to continue any pattern I have established in that regard.

*Sample Language for Power of Attorney*

In the event that I am unable to provide for the care of my pet(s), my Agent is authorized to:

- (1) take possession and custody of the pet; and
- (2) expend or otherwise utilize such amounts of my funds or other property as may be necessary or advisable to provide for the health, care and welfare of my pet(s), including (but not limited to) food, veterinary care and/or insurance, toys and other recreational activities, and temporary boarding and/or pet-sitting fees. In exercising such authority, it is intended that my Agent will maintain my pet(s) in the same standard of health, care, and welfare as I would. Unless medically or physically impracticable, my Agent shall permit me to have as much contact with my pet(s) as I enjoyed before becoming incapacitated. For the purposes of this instrument, any such actions by my Agent taken for the benefit of my pet(s) shall be considered taken for my benefit.

*Sample Language Naming a Charity in Your Will or Trust*

"I give, without restriction, \_\_\_\_\_ Dollars to My Favorite Charity."

"I give, without restriction, \_\_\_\_\_ Percent of my residuary estate to My Favorite Charity."

"I give, for use in support of (*a specific disease or research project or any successor or comparable program*), (*Dollar Amount*), (*Percentage of the residuary estate*) to My Favorite Charity."