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**HOYT & BRYAN, LLC**  
FAMILY WEALTH & LEGACY COUNSELLORS

MARGARET "PEGGY" R. HOYT, J.D., M.B.A. †\*  
RANDY C. BRYAN, J.D. † ‡

† BOARD CERTIFIED IN WILLS, TRUSTS & ESTATES

‡ BOARD CERTIFIED IN ELDER LAW

\* CERTIFIED LEGACY ADVISOR™

## **ESTATE PLANNING FOR PETS?**

**By: Peggy R. Hoyt, J.D., M.B.A.**

Planning for your four-legged loved ones can in many ways be just as challenging as planning for your two-legged loved ones. A typical question that arises in the course of planning for loved ones - Do I need a trust or a will? - is commonly answered the same way when you are planning for your pets. The answer is, "It depends." Factors that have to be addressed when planning for your pets include the following: the number of pets you own, whether any of your pets have unique circumstances that necessitate special planning (ie. health concerns, unusual behaviors, etc), your financial resources to ensure that your pets are adequately provided for, and the identity of one or more caregivers or trustees. These are just a few of the issues and concerns that must be considered to create a plan to ensure that your pets will be properly cared for when you are unable to do so yourself, either through natural disaster, disability or death. No two pet-owners' circumstances are the same and in each case the planning goals of the individual must be addressed so the proper legal structures can be created to ensure those goals are fulfilled.

The first step in planning for your pets, and one of the most crucial, goes beyond the legal design of a pet estate plan. The first step is selecting the caregivers who will have physical custody of your pets and will provide the home where they will live. Much like planning for minor children, before any of the financial considerations are addressed, you have to determine and feel comfortable with the person(s) who is going to be the guardian of the children. Finding the right person can be a challenge. You may consider family or friends, but what do you do if you can't think of anyone suitable for this important role? You could consider a pet sanctuary or perpetual care facility. In other cases, you might consider creating an Animal Care Panel, a panel of trusted individuals whose job it will be to select and oversee an appropriate caregiver when the time comes. The people on your Animal Care Panel might include family, close friends and/or your veterinarian. When choosing a caregiver, here are some important factors to consider: Is this person responsible and committed to caring for your pet for the rest of its life? Does the person already have pets of their own? Will the existence of a new pet cause issues for your pet or the pets who already reside there? What plans have they made for their pets if something happens to them? Once you've selected an appropriate caregiver, never take for granted their willingness to serve; sit down and discuss the important role you have in mind.

You will also want to consider the issue of compensation for your caregiver and providing resources for your pet. There are a number of different choices. One way is to make an outright gift of your pet along with a sum of money to provide for their lifetime care. This has the greatest amount of risk. Another way is you could create a trust (either in a will or

in a revocable living trust) that will provide compensation for the caregiver while also providing for the expenses of your pet. There are an unlimited number of possibilities in this regard and you should work with someone knowledgeable to help you create a compensation plan that will be best for your situation. It is important to consider the lifetime costs of caring for your pet to ensure that you are providing enough resources for your pets. One way to make more than sure that you'll have sufficient money is to consider the purchase of a life insurance policy. I have one client who purchased a policy for \$1 million dollars to make sure that his numerous pets would be properly cared for. That way, he can live out his retirement comfortably without having to worry about the future of his pets.

Selecting a trustee to manage the money for your pet may also be a critical part of your plan. This person could be the same person as your pet's caregiver, but in many situations it may not. If you need another choice, you might consider the services of a certified public accountant, attorney or trust company to act as trustee. Your trustee will be charged with the responsibility of making sure that your wishes with regard to the care of your pets are followed.

Planning for your pets doesn't just mean considering what will happen if you die. You also have to consider the welfare of your pets in the event of a natural disaster or in the event of your disability. What if a hurricane forces you from your home and you are unable to take your pet with you? Have you made any provisions for how your pet will be cared for? What if you have to go to the hospital or a nursing home for an extended stay? Is there someone ready on the sidelines who can step into your shoes until a temporary or permanent replacement home can be found? I recommend to my clients that they create a notebook for their pets detailing all of the important information for each of their pets including the pets name, description (including picture), age, health, special instructions, veterinary information, etc. This way, if the information is needed in an emergency, the notebook is always up to date with critical information.

A comprehensive estate plan that includes your pet will consist of a financial power of attorney with special provisions to provide for the care of your pet, detailed pet care instructions in your pet notebook for emergencies and a will or a trust with detailed instructions regarding the care and placement of your pets after death, including compensation for pet care expenses and the caregiver.

Creating a trust for your pet may be the best option for you. The State of Florida, along with a growing number of states, has passed a law that provides for the creation of a trust where the beneficiary is a pet – called a pet trust. This law allows the trust to last for the lifetime of your pet. Your trustee is charged with the responsibility of carrying out the instructions in your trust. I don't recommend creating a trust without the advice of a qualified legal professional. There's just too much at stake - the lifetime care of your pet.