

Estate Planning for Pets

by Philip Herzberg, CFP®, CTFA, AEP®



Philip Herzberg, CFP®, CTFA, AEP®, is a client adviser for The Lubitz Financial Group in Miami, Florida. He is past president of FPA of Florida, past president of FPA of Miami, and president of

the Estate Planning Council of Greater Miami.

HOW CAN YOU GUIDE your clients in updating their estate plan to financially support their special family members—their pets? Creating a final estate plan can ensure your clients' pets receive a continuing and high level of care should their pets outlive them. It may also keep their pets out of a shelter, which is where many pets end up after their owners die.

As a planner, you can play an integral role in helping your clients choose a pet caretaker, explore funding alternatives, and navigate the wide array of family arrangements and legal agreements available to them. Assess the following considerations so your clients have peace of mind that their pets are appropriately included in their estate plan.

Naming a Caregiver

The first step in planning for the pet's future is to figure out who should take care of the pet upon the clients' death or incapacity. When clients think about selecting a caregiver for their pets, they should determine whether that person is willing and trustworthy enough to oversee the pet for the long-term. Be upfront about expectations and

account for special accommodations if your client's pet has a long lifespan or unusual needs.

It is especially important that the person or entity your client appoints is capable to care for their pet based on their exact specifications. Criteria to choosing caregivers include, among others:

- Can they handle the day-to-day responsibilities related to the pet?
- Will they be able to offer basic provisions, such as food, as well as general affection and companionship?
- Do the pet caregivers have the patience, kindness, and other attributes needed to ethically act in the pet's best interests?

Once your client has identified a caregiver, you should coordinate a plan that spells out what should happen to their pet in the days immediately following their death. There should be clarity during this difficult time about where the pets will be staying, what food and medicine they need, and other essential questions.

Setting Up a Pet Trust

Encourage your clients to talk to their estate planning attorney about formalizing an agreement, detailing the care and control of their pet, as well as making funds available. How much clients should leave their pet depends on the type, age, health, and lifestyle of the animal. You can recommend pet owners calculate how much they typically spend on their pet per year and multiply that

by the approximate life expectancy of the animal. Courts may be able to reduce the amount left for a pet in trust if a judge deems it excessive.

One way to appropriately plan for a pet's uninterrupted care and comfort is for your clients to establish a pet trust. Typically, a pet's trustee will hold property, such as cash, "in trust" for the benefit of the trust creator's pet with payments to a designated caregiver made on a regular basis.

A pet trust is now available in all 50 states, though rules can vary. Depending upon the state in which it is set up, the trust will continue for the life of the pet or 21 years, whichever occurs first. Some states permit a pet trust to continue for the life of the pet without regard to a maximum duration of 21 years. These statutes are particularly advantageous for companion animals such as horses and parrots that have longer life expectancies than dogs and cats.

Instead of a trust, some clients include a provision in their wills that leaves the pet, and usually some money to care for the pet, to a relative or friend. Be mindful that such arrangements may not be enforceable as heirs may decide they don't want to take responsibility for the pet or become unable to care for it. Once the administration of an estate is wrapped up, the will's executor has no continuing obligation to ensure the pet's welfare.

A pet trust may be more advantageous than a will, because it will enable your clients to appoint both a caregiver who will be responsible for the pet's

care and a trustee who will manage the funds for the pet's well-being. Naming different people as caregiver and trustee allows for checks and balances. Provisions in a trust are generally enforceable by a court.

Be sure clients name contingent caregivers and trustees in case their first choices are unable to serve in their respective roles. Understand that when the pet dies, the money in the trust passes to the remainder beneficiaries, usually a family member, friend, or charity.

Considering Other Arrangements

A viable alternative to a pet trust or will is a pet protection agreement, which is a legally enforceable contract between at least two people or entities, often the pet owner and a chosen guardian. The pet protection agreement is a more cost-effective option than the pet trust, because an estate planning attorney is not required to draft documents.

Your clients can set up a power of attorney that enables their appointed agent to make financial decisions regarding their pet if they become incapacitated. Your clients should consult with an estate planning attorney to draft these documents.

If your clients cannot identify trusted people to provide for their pet, they can leave the animal in the care of a pet sanctuary or retirement home, which will watch over the pet until it dies, typically in exchange for a sizable donation. These types of arrangements are usually sponsored by university veterinary schools or non-profit animal welfare groups.

Advise your clients to verify with their local humane society or veterinary school to see if they offer such programs. Be certain to make arrangements with the program before including it in their estate plan.

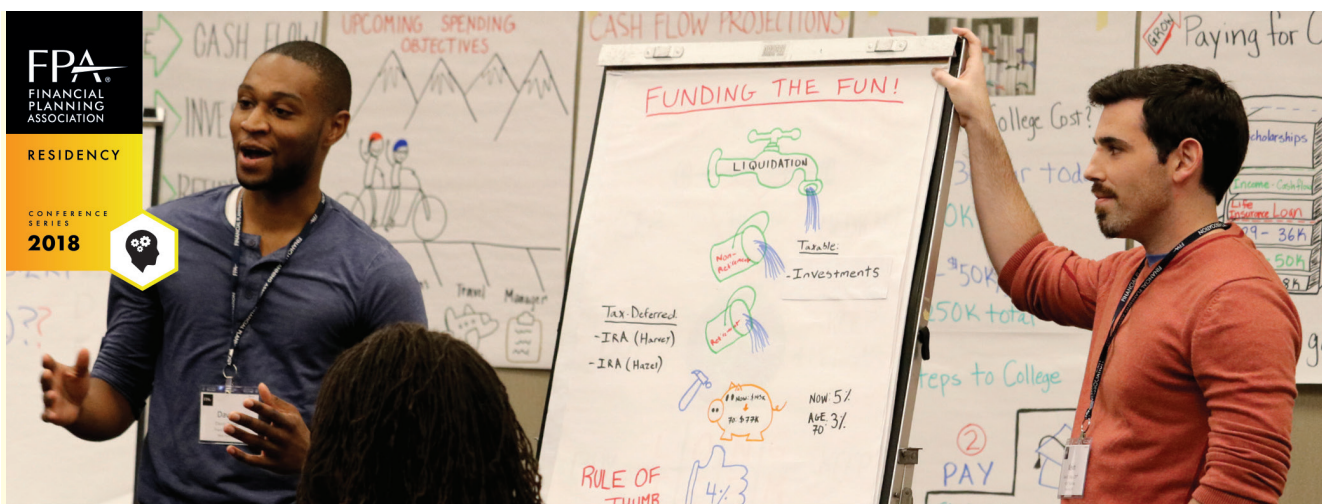
Leaving a pet to a university veterinary school pet care program can get

very expensive. Some programs suggest minimum contributions as much as \$25,000 per pet, with even more prodigious costs for larger animals, such as horses or pets with special needs. The contribution becomes property of the school upon the animal's death.

Remember to talk to your clients about leaving instructions in their estate plan for the pet's veterinarian. Don't forget to inform your clients to outline wishes for the pet's burial or cremation.

Ultimately, the decisions your clients make will depend on what works best for their family, their pet, and their financial situation. There is no greater peace of mind for pet owners than securing care for their companion animals. You will be doing your clients a great service when you help them put a plan in place for their pet's future. ■

The author thanks Deborah Badillo, M.M.P., associate client adviser at The Lubitz Financial Group, for her assistance with this column.



2018 FPA RESIDENCY PROGRAM

Gain Confidence | Gather Knowledge | Create Relationships

FPA Residency October 2018
October 19–24, 2018

The Hilton Denver Inverness
Englewood, Colorado

Save up to \$500 by
August 20, 2018

ONEFPA.ORG/RESIDENCY

*SPACE IS LIMITED. REGISTER TODAY!