

*What will happen to your pet  
if something happens to you?*

# LONG-RANGE PLANNING

by Meredith Fahrner

Ben Franklin wrote, "In this world, nothing is certain but death and taxes."

Discussing death is rarely uplifting but denial and avoidance of the topic can lead to devastating results for our pets. Proper long-range planning for your Portuguese Water Dog will allow you to dictate the terms of your pet's life, should he outlive you, and leave you feeling prepared.

Unexpected deaths can wreak a special kind of havoc on our animals, who often end up abandoned at animal shelters or passed through many homes after the death of their owner. We likely all hope our animals would be welcomed with open arms by our families but this is not always realistic for personal and financial reasons. Instead of leaving your pet's fate up to chance, there are proactive steps you can take today to help ensure your own special PWD does not end up relegated to shelter life should something tragic happen to you.

This article walks you through seven steps, most of which will take less than one hour to complete, which together create a legal safety net for your PWD(s) in the event of an unexpected death or incapacitating disability.

*This article would not be complete without a prominently-placed disclaimer that this information does not constitute legal advice and you should consult your personal attorney to fully comply with the laws of your jurisdiction.*

## **STEP DO A LITTLE RESEARCH TO GAIN A 1 BASIC UNDERSTANDING**

There are three common long-range planning options available: the traditional pet trust, the statutory pet trust, and an outright conditional gift.

Traditional pet trusts are currently valid in every state. You can choose whether to activate a traditional pet trust either during your life or upon your death through a clause in your will; there are benefits and drawbacks to both.

Traditional trusts offer the most control over what happens to your dog during its life with the caretaker. In this type of trust you can specify out your desires for your dog, including the standard of living. A traditional trust provides methods of enforcement to ensure the funds are being used appropriately.

Statutory pet trusts have been adopted in 40 states and each

state's statute is unique. Statutory pet trusts offer less control over the dog's caretaking than traditional trusts. To create a statutory pet trust, a general statement designating a certain amount of money to a caretaker for the care of your dog is often sufficient. The money may only be used for your dog's care and the trust expires upon the dog's death. You are not able to designate specific conditions and the court will determine whether or not the money is used properly. If funds are left over when your dog passes over the Rainbow Bridge, the money automatically is given to your successors in interest as determined by the court.

Your third planning option is an outright conditional gift. With this option, you gift the animal and money to the desired caretaker on the condition that he or she takes care of your dog. This method gives you the least amount of control but, depending on your relationship with the designated caretaker, you might feel perfectly comfortable not attaching any specific conditions to the money. An outright conditional gift is cheaper than creating a trust because it requires less work on behalf of the attorney but also provides fewer safeguards that your pet is being cared for in the manner you might have desired.

If you wish to do some further research, several websites and books are especially helpful. One of the most comprehensive online resources is the website [www.professorbeyer.com](http://www.professorbeyer.com), which is maintained by University of Texas law professor Gerry W. Beyer, an authority on pet trusts and estates. His website contains a variety of information, including articles, statutes listed by state, and sample trust provisions. In 2010, he co-authored the book, *Fat Cats and Lucky Dog*, which addresses long-range planning options in greater detail. Two excellent books are *All My Children Wear Fur Coats* by Peggy Hoyt and the recently published *Who Will Care When You're Not There?* by Robert Kass and Elizabeth Carrie. The latter includes checklists and is written in a style so that the information is easily understood by a non-lawyer.

## **STEP 2 CONSIDER YOUR PERSONAL SITUATION**

Legally, one size never fits all. Therefore, it is important to spend a brief amount of time reflecting on your personal situation. Planning for one dog presents different issues than planning for multiple dogs. A single-dog owner needs to find one home, but multiple dogs require multiple caretakers. Think about which people in your life might be suitable caretakers. Do you have any family members interested or decidedly not interested in taking on your dog? Would you want your dogs separated or together? Are your animals intact or altered? If you died, would you want each of these dogs neutered or spayed? Are any of your animals co-owned and, if so, would the co-owner take full possession?

## **STEP 3 READ YOUR PUPPY/BREEDER CONTRACT**

It's likely that your PWD came with conditions and a contract. Now is a good time to dig out that contract and read it again. It may dictate that your dog be returned to his breeder upon your death or if, for whatever reason, you are unable to care for him. In this case, you might consider whether the breeder would appreciate reimbursement for the expenses while finding him a new home. On the other hand, your breeder may prefer to keep your dog for the remainder of his life, in which case you can designate your breeder as his caretaker in your legal documents. Regardless, you would be wise to discuss your wishes and long-range planning project with your breeder to avoid confusion and misunderstandings in the event of your death or catastrophic disability.

## **STEP 4 EVALUATE YOUR FINANCES**

Regardless of whether you set up a trust or outright conditional gift, you must determine how much money you can and wish to put in the trust. Thorough planning can ensure that the caretaker's financial situation does not eliminate his or her ability to care for your dog. In 2007, it was widely publicized that Leona Helmsley left \$12 million for the care of her beloved Maltese, "Trouble"; rest assured your financial outlay need not be as generous as Ms. Helmsley's to make a lasting impact.

First, determine what expenses the trust will cover. A few examples of items frequently funded via a pet trust are:

- ♥ routine vet care
- ♥ medications
- ♥ boarding, daycare and/or a dog walker
- ♥ health concerns specific to your dog(s)

- ♥ chemotherapy, surgery and follow-up for cancer treatment
- ♥ emergency surgery
- ♥ spaying and/or neutering of intact animals
- ♥ grooming - PWD grooming must not be overlooked, as it can exceed \$500 per year per dog if sent to a groomer. If the caretaker intends to groom your PWD, you might consider including adequate funds for purchasing or maintaining supplies.
- ♥ food and treats
- ♥ training and/or trials.

Remember that taking on someone else's pet is an enormous and expensive undertaking even with the best of intentions, especially if you are planning to keep multiple dogs together. Carefully calculate the funding needed for each dog's yearly needs and add a generous cushion to that amount.

Second, decide if you wish to fund only the direct costs of care. Some people choose to compensate the caretaker individually for the time and consideration spent caring for their dog.

Finally, if you are creating a traditional pet trust, decide where the remaining money will go if your dog passes over the Rainbow Bridge before the trust fund is drawn down. You may feel comfortable leaving the remainder to your dog's caretaker but it should be (cynically) noted that this setup may create an incentive to not extend his life or even end it prematurely. A generous alternative would be to leave the remainder to your favorite canine charity, which might include the Portuguese Water Dog Foundation, PWDCA Rescue, Inc., the Deyanne Miller Scholarship Fund or your regional PWD club.

## **STEP 5 MEET WITH AN ATTORNEY**

Maybe you already have an attorney on speed dial, in which case you can go ahead and pick up the phone. For everyone else, your local bar association will have a list of member attorneys, or referrals from friends and family can steer you towards an estate attorney with whom they have been pleased. Your goal is to find a competent estate lawyer, preferably one with previous experience drafting pet trusts. Your attorney will address the specifics of your jurisdiction and will help you select the best option for your situation.

A word of caution: in lieu of meeting with an attorney, you may be tempted to swing by your local Big Box Office Supply for a ready-made, fill-in-the-blank trust packet. Be aware that these generic forms are not sufficient to protect your lovely PWD! Legal drafting is much more complex than filling in the blanks as if you are creating a Mad Lib. Additionally, it is imperative that your trust or outright conditional gift be incorporated into your other legal doc-

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## LONG-RANGE PLANNING, *continued*

uments. The use of an attorney will ensure that your trust is valid and properly integrated.

As long as you are meeting with an attorney, might I suggest you take this golden opportunity to address any other legal loose ends?

### **STEP 6 PREPARE YOUR PWD RECORDS**

Consolidating your dog's information gives his new caretaker all the relevant documentation in one place. Reserve an evening in front of your favorite television show and organize your pet's documentation in a binder or box. Your dog's AKC registration will need to be transferred from your name, so include a copy of his AKC registration. Also include: microchip number, vet records from birth, list of medications and dosages past or present (and any allergies), feeding instructions, your breeder contract and the breeder's contact information. The caretaker might appreciate a list of commands and meanings for easier communication, but the exact detail of information you choose to include will vary based on how familiar the caretaker is with your pet. If you

have multiple PWDs, of course this must be done for each individual dog.

When you are finished, place this binder or box with your other important documents, clearly labeled, so it is easily located when needed.

### **STEP 7 REPEAT AS NECESSARY**

Review your legal document and personal wishes regularly or immediately upon a change in circumstances. Changed circumstances may include the addition or loss of a PWD, illness, death or other changed circumstances of the intended caretaker.

### **STEP 8 SLEEP SOUNDLY**

Congratulations, you can now rest assured that your PWD will be cared for should anything happen to you. I hope that long-range planning brings a peace of mind for you and allows your PWD to live the life you dictate, instead of subjecting him to chance or fate. Death may be inevitable, just like taxes, but when you take proactive steps you can influence what life holds for the dog left behind.

*About the author: Meredith Fahrner is a prosecutor in a small, rural county in Illinois. She and her PWD "Hudson" compete in agility and obedience.*