Incapacity Planning for Family Animals

Educational Resource for Attorneys

Practical incapacity considerations attorneys may discuss with estate-planning clients to help ensure continuity of care for family animals during periods of temporary or permanent incapacity. This publication is intended for educational purposes only and does not constitute legal advice.

Purpose

Estate planning discussions often focus on the distribution of property after death. Equally important, however, is planning for periods when a client is temporarily or permanently unable to care for their family animals due to illness, injury, hospitalization, disability, or other life events.

This guide highlights common planning considerations that attorneys may wish to discuss with clients to help reduce uncertainty and promote continuity of care.

Common Situations That May Create Incapacity

Clients may become temporarily or permanently unable to care for their family animals because of:

- Hospitalization
- Surgery and rehabilitation
- Long-term care placement
- Skilled nursing facility admission
- Military deployment
- Extended travel due to family emergencies
- Unexpected caregiving responsibilities for others
- Serious illness
- Physical or cognitive disability
- Assisted living admission
- Mental health crisis
- Natural disasters
- Court-ordered absence

Initial Client Discussion

Attorneys may wish to ask:

- Who currently provides daily care?
- Who could immediately step in during an emergency?
- Does the client have a trusted temporary caregiver?
- Are alternate caregivers available?
- Does the caregiver have access to the residence?
- How would the caregiver obtain food, medications, and veterinary records?
- Are financial resources available to support temporary care?

Temporary Care Planning

Discuss whether the client has identified:

- A primary temporary caregiver
- One or more alternate caregivers
- Emergency contact information
- Housing arrangements for the family animal
- Transportation plans
- Feeding schedules
- Medication instructions
- Veterinary contact information
- Behavioral or safety considerations

Essential Information to Organize

Encourage clients to maintain updated information, including:

- Identification and photographs
- Microchip information
- Veterinary records
- Vaccination history
- Medications
- Allergies
- Daily routines
- Feeding instructions
- Exercise needs
- Behavioral considerations
- Insurance information
- Emergency contacts

Financial Considerations

Temporary caregivers often incur expenses. Planning discussions may include:

- Food
- Veterinary care
- Prescription medications
- Grooming
- Boarding
- Transportation
- Emergency treatment
- Pet insurance premiums
- Reimbursement procedures

Legal Coordination

Depending on applicable law and the client's objectives, attorneys may consider coordinating incapacity planning with:

- Durable Financial Powers of Attorney
- Health Care Directives
- Revocable Trusts
- Family Animal Trusts, where appropriate
- Letters of Instruction
- Emergency Care Authorizations
- Temporary Care Agreements

Veterinary Coordination

Discuss whether the client wishes to provide:

- Preferred veterinarian
- Authorization for treatment
- Medical history
- End-of-life preferences, when appropriate
- Emergency veterinary hospital
- Contact information
- Insurance details

Housing Considerations

Clients should consider:

- Lease restrictions
- Breed or species restrictions
- Temporary boarding options
- Homeowners' association rules
- Farm or agricultural considerations
- Sanctuary placement if appropriate

Communication Plan

Encourage clients to identify individuals who should be notified during an emergency:

- Family members
- Caregivers
- Veterinarians
- Friends
- Trustees
- Property managers, if applicable

Periodic Review

Recommend reviewing incapacity planning whenever there is a significant life event, including:

- Marriage or divorce
- Death of a caregiver
- Relocation
- Changes in financial circumstances
- Birth or adoption
- Acquisition of a new family animal
- Changes in health
- Changes in applicable law

Attorney Discussion Checklist

- ☐ Identify temporary caregiver(s).
- ☐ Identify alternate caregiver(s).
- ☐ Review emergency contact information.
- ☐ Discuss funding for temporary care.
- ☐ Review veterinary information.
- ☐ Coordinate with incapacity planning documents.
- ☐ Evaluate whether additional planning documents are appropriate.
- ☐ Discuss periodic review and updates.

Educational Disclaimer

This publication is provided by PawsinTrust™ solely for educational purposes. It is intended to assist attorneys in identifying practical considerations that may arise when discussing incapacity planning for family animals with clients. It is not legal advice, is not a legal form, and should not replace independent legal analysis or drafting. Attorneys should adapt all planning recommendations and documents to the governing law of the applicable jurisdiction and the specific circumstances of each client.