



## **"INSURE" AGAINST INSURANCE MISTAKES**

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People decide against purchasing equine liability insurance for a variety of reasons. Those who do buy liability insurance learn too late that avoidable mistakes may cost them the coverage they intended. This article examines six common myths dissuading horse owners from purchasing equine liability insurance or myths resulting in coverage denial when insurance is needed most.

### **Myth #1. Liability Insurance Is No Longer Needed Since Illinois Has an Equine Activity Liability Law**

The Illinois Equine Activity Liability Act is not a "zero liability" law. The Act does not protect everyone engaged in equine activities and it does not limit liability in all activities involving equines. Recent cases provide that the Act may now only cover equine professionals and sponsors and others apply the numerous exceptions where the Act affords no liability protection. Therefore, insurance policies are necessary to protect yourself from liability in these and other scenarios where the liability limitations of the Illinois Equine Activity Liability Act simply will not apply.

### **Myth #2. Insurance Is Not Needed With A Signed Liability Waiver**

The law requires necessary elements for an effective release agreement. What if your equine facility is not properly named on the release? What if the signer was unknowingly a minor thereby negating the enforceability of the release? A release is susceptible to these and many other pitfalls rendering it unenforceable. Additionally, despite the enforceability of the release, the signer may still sue for damages. They may win or lose, but their suit against you will still cost a great deal to defend in attorneys' fees and court costs, not to mention an unfavorable judgment or costly settlement. An insurance company may provide the defense costs and/or judgment or settlement amount up to a defined amount if a claim or complaint is covered under the policy. A signed waiver will not offer the immediate monetary benefit necessary in defending a claim or complaint. Without insurance, you are responsible for paying your own legal fees and paying the settlement or judgment.

### **Myth #3. Homeowner's Insurance Will Cover Liabilities Arising from Horse Related Business Activities**

It is true that your homeowner's insurance policy will typically protect you if someone is injured on your property. However, if you are conducting any business pursuits whatsoever, your homeowner's insurance policy will not provide protection. A "business pursuit" includes, among other things, riding lessons, boarding, or training, whether for money or something else of value. For example, if a visitor on your property is injured in your backyard barn, your homeowner's policy will probably cover your liability. However, if the visitor injured was a boarder in your

barn, whether she is paying or "working" for her board, boarding her horse is considered a "business pursuit" and the policy may not afford you protection. A commercial general liability insurance policy, or other insurance policy specifically designed for your business activities, is necessary.

**Myth #4. General Business Liability Policy Will Cover Injuries to a Boarded Horse in My Barn**

Business insurance typically does not provide coverage for horses boarded in your facility. Horses you do not own, but in your care, custody or control, are excluded from the basic commercial liability policy. Purchasing additional insurance, known as a care, custody, and control policy, can protect you from liability in the event a horse is injured while boarded at your facility or is otherwise in your care.

**Myth #5. Notifying the Insurance Company or the Insurance Agent Under the Mortality Policy After the Horse Dies from an Illness or Surgery is Sufficient Notice**

Proper notice to the insurance company is an essential coverage requirement. Most mortality insurance policies require "immediate" or "prompt" notice of the horse's injury or illness prior to its demise. The policy will also provide a contact person and phone number to report an injury or illness. This contact person is likely not your insurance agent. Reporting to the wrong person may constitute no notice at all. It is therefore imperative that you read and understand your policy notice requirements before you have to report an unfortunate injury or illness. Keep the insurance company's notice telephone number in a readily accessible location such as on the stall door or in the tack room. Horse owners risk coverage denial simply for failing to comply with the policy notice requirements.

**Myth #6. An Insurance Policy Naming Only the Business will Protect the Business Owner and Her Employees from Liability.**

Only those named in an insurance policy are afforded its protections. If your farm is the only party designated on a policy, the farm is the only party insured against liability under the policy provisions. You, your employees, your family, and others you may intend to benefit from the policy may not be covered. Therefore, the following situations may require your agent to add "additional insureds" to your insurance policy: (a) if your business operates under a corporate name, that name should be added; (b) if your business operates as a partnership, the partnership itself and each individual partner should be named; and (c) if you have employees, each should be named as covered individuals while they are working.

The following tips, not myths, may assist with avoiding the common pitfalls of insurance coverage once you have purchased your policy. First, keep the insurance company name and notice telephone number on your stall door, in the tack room, in your truck, and in your trailer so you and others who care for your horse will have easy access to this important information. Second, notify your insurance company as soon as possible when your horse is ill or injured despite the time of day or day of the week. Most insurance companies provide a notice telephone number intended for calls 24 hours a day and 7 days a week. Third, purchase your policy from an

agent and company specializing in equine insurance. Your equine insurance needs are specific to your horse, your business, and your equine related activities. The complexity of equine insurance coverage commands the advice and assistance of knowledgeable agents and insurance providers. Finally, and for these same reasons, consult with an attorney specializing in equine law to review your equine insurance needs and policies to "insure" you, your business, your horse, and other intended protected parties are covered.

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