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What makes a liability release enforceable?

How do liability releases work?

• Discourage people from suing you in the first place
• Help prevent them from winning if they do sue
• Must inform the person signing the release form of the risks of the activity they’re about to engage in
• The liability release has to get the signer to agree to accept those risks

What makes a liability release enforceable?

The more specific, the better

• Include specific provisions about the dangers involved in trail riding, such as wild animals spooking horses.
• “Horseback riding is dangerous”
  • Why too broad? The idea is for the release to cover all the typical risks of the activity.
What makes a liability release enforceable?

The right parties must be released
- A boarding stable release should include not only the stable itself, but also its owners, employees and independent contractors.
- Property owners
- Parties to be released can be listed as a category, like "employees," rather than listing each person individually by name.

What makes a liability release enforceable?

The right parties must sign
- A boarder can’t sign away their family members’ and guests’ legal rights.
- Children (minors, persons under 18 years of age) can’t sign away their legal rights.
  - For that reason, one-size-fits-all liability releases simply don’t work.
Clinic and Show Liability Releases - Common Problems

Problem #1: The release is written in legalese

- Most equine event liability releases flunk the understandability test – you can’t read the waiver and tell what the risks of participating in the event are.

Problem #2: The release is designed for brevity, not enforceability

- A lot of horse shows and clinics include a liability release paragraph on the entry form. The paragraph is short, and usually in small type.
- Courts may refuse to enforce a release that is very small typeface or one that’s inconspicuous, such as on the back of an entry form or tucked into a big show premium book.

Problem #3: The right parties don’t sign the release

- Even if the exhibitors have signed liability releases, the spectators usually haven’t, and neither have the exhibitors’ trainers, parents and friends.
Clinic and Show Liability Releases - Common Problems

Problem #4: The release is borrowed
- Most of the form liability releases out there for shows and clinics have been used year after year, even though they’re probably unenforceable.

Problem #5: The release doesn’t name the right parties
- If the release names the organization putting on the show, but not the volunteers helping out at the show, the volunteers could still be sued.

The Business of Boarding
Top 5 Mistakes Boarders Make

1. Drafting their own boarding contracts and liability releases
   - The contract doesn't include all the material terms
   - The contract doesn't say what state's law will apply, or where
     the parties can sue each other
   - The contract doesn't provide for attorneys' fees and costs if the
     parties sue each other

Top 5 Mistakes Boarders Make

2. Being too nice
   - The longer the owner waits to evict a problem boarder, the
     bigger the problem will become

Top 5 Mistakes Boarders Make

3. Letting late payments get out of control
   - Why wait months to evict a boarder who isn't paying?
Top 5 Mistakes Boarders Make

4. Being uninsured or underinsured

Top 5 Mistakes Boarders Make

5. Letting boarders work off board

Insurance
Care, Custody and Control (CCC) Coverage

Target audience:
Boarding stables, breeding farms, trainers and other commercial equine operations who take on the responsibility of caring for others’ horses

Typically covered: Risk of loss or injury to another person’s horse in your care. Example: Your ranch hand doesn’t latch the gate securely, the boss mare lets the other horses out into the alfalfa field and several horses founder as a result.

Not typically covered: Risk of loss or injury caused by horses in your care, loss or injury to your own horses. Example: Those same loose horses get into the parking lot and chew the paint off of several boarders’ cars.

Commercial Equine Liability Coverage

Target audience:
Horse-related businesses, including boarding stables, breeding farms, trainers and sales barns
Commercial Equine Liability Coverage

**Typically covered:** General liability relating to operating your equine business. **Example:** While on your property, a client drives over some used nails you left in the driveway, resulting in blown tires on your client’s truck.

**Not typically covered:** Risk of loss or injury to another person’s horse in your care. **Example:** One of your client’s horses walks over those same nails and gets one stuck in her hoof, causing an abscess.

Farm and Ranch Coverage

**Target audience:** Farm and ranch owners

**Typically covered:** Loss to real and personal property. **Example:** someone steals your manure spreader and several thousand dollars’ worth of feed.

**Not typically covered:** Loss of livestock, general liability. **Example:** The same burglar steals several of your horses and then on the way out backs into your client’s trailer.
Workers Compensation Coverage

Target audience: Employers

Typically covered: Injuries to employees incurred as part of their job. Example: Your assistant trainer is longe-lining a squirrely two-year-old stud colt, who kicks out and breaks her jaw.

Not typically covered: Losses caused by your employees. Example: the colt gets loose from your assistant and wraps the trailing longe lines around a pipe, pulling it loose and causing a flood.

Horse Trailer Insurance

Target audience: Horse trailer owners
Horse Trailer Insurance

Typically covered: Damage/loss to your trailer. Example: someone backs into your trailer, denting the side, and drives off before anyone notices.

Not typically covered: Damage/loss caused by your trailer. Example: when pulling out of the grounds to get your trailer fixed, you back into the tie rack, knocking it over.

Equine Mortality and Theft Coverage

Target audience: Owners of valuable horses

Typically covered: Theft and death not caused by the owner’s negligence or willful misconduct. Example: Your horse is struck by lightning while out in the pasture.

Not typically covered: Death caused by the owner’s negligence or willful misconduct. Example: You feed your horse moldy hay by accident, he colics and dies.
Major Medical and Surgical Coverage

**Target audience:** Owners of valuable horses

Typically covered: Certain types of surgery and other expensive medical procedures. Example: Your horse develops a tumor that must be removed, requiring major surgery.

Not typically covered: Routine medical procedures. Example: There is an outbreak of a rare disease in your area and your veterinarian recommends an expensive vaccine.

Loss of Use Coverage

**Target audience:** Owners of valuable performance horses
Loss of Use Coverage

Typically covered: Permanent disability. Example: Your reining horse steps into a gopher hole in the pasture and fractures his coffin bone, causing permanent lameness.

Not typically covered: Temporary disability, death. Example: The same horse gets a splint, causing temporary lameness.

Stallion Infertility Coverage

Target audience: Breeding stallion owners

Typically covered: Permanent loss of fertility/breeding ability. Example: You purchase a Breeders’ Cup winning stallion. Two years into your breeding program, he becomes sterile.

Not typically covered: Death. Example: The same stallion colics and dies.
Named Perils Coverage

*Target audience:* Horse owners who don’t want (or can’t get) coverage under mortality or major medical coverage.

Typically covered: Death from certain causes, e.g., fire.

Not typically covered: Death from illness.

Short-term Transit Coverage

*Target audience:* Horse owners hauling their horses on a short-term basis who don’t have mortality or major medical coverage.
Short-term Transit Coverage

*Typically covered:* Death during transit.
*Not typically covered:* Injuries during transit.

Horse Owner Liability Coverage

*Target audience:* Horse owners concerned about being liable for their horse’s actions.

*Typically covered:* Injuries or property damage caused by your horse. *Example:* Your horse kicks a mountain biker while on the trail.
*Not typically covered:* Business activities relating to your horse. *Example:* You use your horse for giving riding lessons and one of your students is injured.
Race Horse Owner Liability Coverage

**Target audience:** Race horse owners

**Typically covered:** General liabilities associated with race horse ownership. *Example:* Horse jumps into the grandstand, injuring several spectators.

**Not typically covered:** Injury/loss of the horse, liability associated with activities that are more than mere ownership. *Example:* Jumped into the grandstand, the colt you’ve been training breaks his leg, ending his racing career.

Riding Club and Other Group Coverage

**Target audience:** 4-H clubs, pony clubs and other horse-oriented clubs that host mounted activities
Riding Club and Other Group Coverage

Typically covered: Injuries, losses and property damage that occurs during club activities. Example: While out on a hunt, a member’s horse throws him and runs through a tomato field on his way back to the barn, causing damage to the farmer’s tomato crop.

Riding Club and Other Group Coverage

Not typically covered: Contractual and other disputes relating to club events. Example: The food stand operator’s contract states that your club must make up the difference in cash if he doesn’t sell $1500 of food and beverages during the show. Unfortunately, it snows on the day of the show, so the turnout is poor and he only makes $500.

Show and Event Liability

Target audience: Operators of horse shows, clinics and other events
Show and Event Liability

Typically covered: Injuries, losses and property damage resulting from club activities. Example: The loudspeaker squeals loudly during your dressage clinic, causing several horses to spook and throw their riders. Chaos ensues, during which several riders are injured.

Not typically covered: Contractual and other disputes relating to events. Example: One of the instructors for your dressage clinic does not show up, and some participants demand a refund.

Donating a Horse

Consider leasing instead
Get creative
Screen the adoptive home
Have a written agreement

Giving Away a Horse: What a Donor Needs to Know

Charge a fee