

Insurance Gobbledygook: Demystifying the Terms of Insurance

Part One: Care, Custody and Control

Wading through the sea of insurance terms to determine what kind of coverage you need can be an intimidating and confusing process. LEGISequine.com understands this, and we feel everyone involved in the horse industry should have at least a basic understanding of insurance and the associated terms so they can make informed decisions on what kind of coverage they need, along with advice and help from their agent. We hope to clear the mire and make the insurance process just a little easier for you. In this first installment of Insurance Gobbledygook: Demystifying the Terms of Insurance we will explore Care, Custody and Control.

Understanding Care, Custody, and Control

Trainers and people operating boarding stables often run across the term Care, Custody, and Control. They are told they need it and would be crazy not to have it, and then the next question is, “What limits do you want?” Instead of stammering, scratching your head trying to appear thoughtful, and then staring off into the distance as if performing a complex calculation when you’re actually casting about for what it can possibly mean, here are the basics of Care, Custody, and Control.

If you have horses in your care, whether you offer boarding services, training services, or where you exercise control over their well-being, you could be held responsible if a horse is hurt or gets sick and the cause can be linked to you. For example, if the automatic water unit in a horse’s stall malfunctions and the horse colics, as the operator of the boarding stable you could be held responsible. If you as the trainer are hauling your clients’ horses to a show and a horse gets out of the trailer with a serious laceration, the owner could hold you, the trainer, responsible for the injury. Or, if the stall cleaner doesn’t properly latch the stall door and the horse gets out and gets hurt, again the boarding stable owner could be held responsible. If this happens at a show, in all likelihood the trainer will be held responsible.

Whether the blame and level of responsibility is accurately assigned is not the initial issue. The likelihood is that you are facing a dispute and possibly a lawsuit if the issue is serious, as well as the potential of having to pay some amount for the damage (injury) to the horse. Even if you are completely without fault, lawyers can cost several hundred dollars per hour, so defending yourself against even spurious claims can be costly. If the horse’s injury or death is covered under the owner’s insurance policy, their company could possibly sue you, even if the owner does not want to.

Care, Custody, and Control insurance offers protection in similar scenarios. The coverage provides legal defense for covered claims, whether the case goes all the way to court or there are simply a few “lawyerly” letters exchanged between parties. You will not have to hire and pay an attorney out of your pocket, and attorney fees can get expensive very quickly. In addition, the insurance company will investigate the matter, and if there is some responsibility on your part, they will pay an agreed-upon amount. This could be as simple as reimbursing the horse’s owner for veterinary costs or as costly as paying a large amount of damages because the horse can’t be used for a period of time (or ever again) and the owner claims you were negligent.

Your insurance company is obligated to investigate every claim and pay on your behalf, any covered claims or settlement, up to your policy limits. If you cannot be held responsible for the injury or death, the owner of the horse will need to turn to their own major medical or mortality policy, provided the owner has one—if not, the costs will come out of their own pocket.

Some real-life examples of where a Care, Custody and Control policy could provide assistance:

- A promising young racehorse at a layup farm stepped on a nail in the pasture and his injuries were sufficient to prevent him from ever racing again. The owner sued the farm for over a million dollars for damages for veterinary and loss of use of the horse due to the early end to the horse's career. The farm had to bear the cost of hiring an attorney and pay for any damages for which they were found responsible because they didn't have coverage.
- An individual was boarding and training a horse they did not own when the horse died. The owner had the horse insured for full mortality, but their insurance company sued the insured—which they have the legal right to do. The judge determined the insured was not negligent, and their Care, Custody and Control policy covered their legal defense. Had they been found negligent, their policy would have paid for damages up to the amount stated in the policy. However, the individual providing the boarding service had his legal costs covered by his insurance company.

If you are paid for the care of a horse, where you exercise control here are some things to consider when evaluating Care, Custody, and Control coverage:

- Can you afford to hire an attorney out of pocket should a problem arise, even if the fees add up to several thousand or even tens of thousands of dollars?
- Can you absorb a large payment for vet bills or loss of use for a horse you don't own?
- Could you lose your business if someone files a claim against you and wins, costing you a large amount of money?

If you answered no to any of the above, you may want to consider carrying a Care, Custody, and Control policy. Please note that this coverage is in addition to a regular liability policy (<http://www.legisequine.com/coverage/commercial.html>). Care, Custody, and Control is a very specific type of liability coverage that trainers, stable owners, and others responsible for horse care add to their general liability policy. As always, discuss this with your agent, and your agent should be able to explain this coverage to you in straightforward, easy to understand language.

Because of the unpredictable nature of horses, you never know what can happen, and you could find yourself in a lawsuit when you did everything exactly as you should have. Purchasing a Care, Custody and Control policy is like purchasing peace of mind.

Next installment: Understanding the difference between Liability and Care, Custody and Control. We will offer a variety of topics in this series, such as Loss of Use, Commercial Property and more, so stay tuned! Have an insurance question you'd like us to write about? Contact Marnye Langer at marnye@LEGISEquine.com and you may see your question answered

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