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RISK REDUCTION QUESTION & ANSWER

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To follow are some most frequently asked “why-not” questions NAHA receives concerning safety and insurance issues for horse businesses. I will respond to each by stating the NAHA Risk Reduction Standard(s) that applies, after which I will provide some key insights into why the standard exists as it does. You will see that the most frequently asked questions relate to Equestrian Services and pertain to young children.

When someone questions us on these points, we are always happy to discuss and debate the point. Sometimes operators give us ideas we had never thought of before that could make an activity insurable. We first remind an operator to consider that they are providing a commercial service, and they have a higher duty of care toward their patrons than a personal horse owner may have for a casual guest who is not advertising a service and charging for it. A fairly common response is, “Well, I’ve been doing it this way for 20 years and nothing bad has ever happened.” We then suggest that they have been very lucky, and will take our second approach to understanding by trying to get them thinking about what they would do in worst case scenarios. “Have you thought through what you would do in a worst case scenario? What are your A, B, and C Action Plans to mitigate the circumstances when things go wrong should you go ahead with a high risk procedure or activity?” Accidents with horses happen so fast, that even when one has several Action Plans in place, it does not mean they will choose the right one in that split second when their instincts take over. So, for commercial operations, it is best not to complicate things any more than necessary when it comes to hazardous procedures or activities.

1. INSTRUCTING YOUNG CHILDREN TO RIDE A HORSE

The Question: Why do you consider teaching young children under age six to fall into the category of a pony ride instead of riding instruction?

The Standard: *The minimum age of a rider or student shall be no younger than 7 years of age. If you are an NAHA member Insured, and you provide riding services to children six years of age and below, you must comply with NAHA Risk Reduction Standards for Pony Rides and be sure this exposure is added onto your liability policy.*

Answer: Teaching young children to ride a pony or horse represents an increased level of exposure that is considerably higher than for riding instruction of older youth and adults. Therefore, we classify providing equestrian services for children age 6 and younger to be a “pony ride” This is done for two reasons: 1. So that the premium for liability insurance will support the higher exposure; and 2. So that the requirements for providing the ride and instruction will fall under the pony ride risk reduction standards. These standards require that an adult have hands-on control of the pony at all times, that adequate supervision is provided, a spotter or spotters are present, and that riding is without fail performed inside of a small and properly fenced enclosure with controlled access and entry points.

Of particular concern are operators / instructors being able to keep small children safe because they are considered to be at an age of innocence where they are almost completely dependent upon adults for their safety. Mistakes made and lax safety procedures with young children can result in expensive liability claims if something goes wrong. Of equal importance is the fact that no one wants suffer the guilt and pain of having a child get hurt while in their care. Another consideration is that in most states a child and / or their parents or guardian cannot sign away the child's legal rights through use of a release of liability. Even though this is a general fact, it is still prudent to have the parents or guardian sign a release which contains a contract to clarify the service performed, and which provides warnings and other wordings required by state Equine Activity Laws. This is because the properly written and executed agreement can potentially be helpful in holding down the value of a claim and maybe even to getting a claim dismissed.

Some instructors say that they only instruct young children ages six and younger who appear to be especially gifted; of above average intelligence and physical ability with a strong desire to learn. While this may occasionally be true, we at NAHA have concerns about how those lessons are taught and how much teaching can actually take place with a young child. Young children generally do not have long attention spans and have limited ability to understand and carry out instructions effectively to control a horse. Instruction must be kept very simple and repetitive and sessions short. Small children have limited strength and balance to be able to hold their position in the saddle for long periods of time and to control a horse effectively while doing so. Another problem is that a child will often not "fit" a horse or pony and tack well and may not be able to place their legs on the horse's girth properly for a secure position. While we acknowledge that a small child can be taught something about riding and controlling a horse, we believe the restrictive factors make the lesson more a recreational ride than that of teaching fine points of riding.

2. DOUBLE RIDING

The Question: What is wrong with double riding?

The Standard: *You may not allow two or more riders to be mounted and riding upon one horse under any circumstances. This requirement does not apply to disabled riders for whom the practice of double riding is necessary to their safety when practiced under highly controlled conditions inside of an arena or riding ring enclosure.*

Answer: As someone has said, "One picture is worth a thousand words." Every so often we hear of a very serious accident involving an adult riding double with a small child, in which the horse reacts to something that frightens it or the horse falls down because of poor footing. The chain reaction may be that the child falls off the horse and the adult does also landing on the child, or the horse falls on or steps on one or both riders. This is a worst case scenario, and when this scene unfolds in someone's imagination as it is described, it is usually very clear what is dangerous about double riding.

There is a lot to think about when riding a horse alone, let alone with a child. If a horse jumps or spins and bolts out of fear, the single rider only has himself and the horse to worry about. However, if an adult is riding with a small child in front of them in the

saddle, and something goes wrong – the horse misbehaves or falls, which can happen very quickly, what does the adult do first and what will his instincts tell him to do: To protect the child or to take action to control the horse?

When bigger people ride double together, the person in the back is usually sitting behind the saddle and is not positioned over the horse's center of gravity. This affects both the horse's and the rider's balance and ability to move with ease and balance. The rear rider's legs are dangling or maybe gripping the flank of the horse, an area that is usually more sensitive than the girth where the front rider's legs would be. The rear rider is usually holding onto the front rider by wrapping their arms around their waist (or they may be hanging onto the cantle of the saddle.) If they start to fall it can affect the front rider's ability to stay on and in control of the horse.

We are sometimes asked if the "Double Rider Saddles" won't eliminate most of the problems and the answer is "NO"; the issues involving balance and stability remain a problem.

Riding double adds several layers of complexity and diversion to the riding carrying process for both the horse and riders, which makes it far less safe than one rider being on one horse. This is the reason that commercial operators of horse rides and lessons may not allow double riding, and boarding stable operators are encouraged to establish rules for boarders that clarify who may or may not ride double on their premises. If an individual horse owner chooses to take such a chance that is perhaps their business, but commercial ride operators should not take such chances with the safety of their patrons.

3. SEAT BELTS FOR CHILD RIDERS (AND PASSENGERS ON HDV RIDES)

The Question: Why can we not apply a safety strap to fasten children onto saddles so they won't slip off as easily?

The Standard: *No operator or their staff may secure, or fasten any customer, guest, patron rider or passenger onto a saddle or horse or horse drawn conveyance by buckling, tying, binding, fixing of fastening straps or any other apparatus. The requirement applies to all types of equine riding and driving activities.*

Answer: The laws of most states require passengers in autos to wear seat belts for their safety and protection. It is natural to think maybe it would be a good idea for some riders or passengers to be strapped onto a horse or into a horse drawn vehicle. I will try to explain why this may not be a good idea for commercial operators of child pony or horse rides and horse drawn vehicle rides.

Let's examine pony / horse rides first. Over the years, I have heard of some strange and familiar tying-on practices. I've even heard of someone tying a disabled man's feet to the stirrups at his request. At one time, about five years ago and prior, it was still common for pony ride operators, especially of carrousel rides, to use safety straps with either buckles or Velcro that actually were fastened around the child's waist or over their thighs in an effort to keep a child rider from falling off a pony or horse. Some hand-led pony ride operators used these also, although it was not as common and considered too dangerous to do so. In 1999, NAHA gathered input from various horse, legal and

medical experts and we decided we needed to take a stronger position on this issue. At that point NAHA decided to no longer insure operators that use such tying on devices, carrousel or otherwise. We and other experts acknowledged that the straps might keep a child from shifting to the side, thus keeping the child more balanced on the pony and less prone to falling off. However, we believe this potential benefit would be outweighed by a greater hazard and difficult to defend if a serious accident resulted. The greater potential hazard is this: If a pony or horse bolts, jumps sideways, bucks and / or runs away, it is better that the child has a chance to be removed from the pony quickly or is thrown free of it.

I shall give one worst case scenario that just makes one wince in recognition of how dangerous the tying on procedure could be. I know of one case in which an operator allowed unsupervised parents to lead a seasoned, older pony down a trail with their child riding on it. The child was tied onto the pony with a “safety strap.” To complicate things more, prior to sending them off the operator inserted the child’s feet into the stirrup leathers above the stirrup because the saddle did not actually fit the child. It is believed that some yards down the trail the “bomb proof” pony was stung by an insect. It bolted, the parents let go of the lead line, and the saddle slipped sideways. The parents were unable to quickly grab the child off the pony to safety. And the child could not fall free of the pony because he was tied on. The child was not wearing a helmet and injuries to the child were severe and permanently debilitating. Had the operator been following all the key NAHA risk reduction standards, this incident would not have occurred.

The use of safety belts on horse drawn vehicles is at issue for similar reasons: If a panicked runaway horse takes off with a vehicle, is it better for them to have an opportunity to choose where or how to make their exit than it is to stay with the rig. Horse drawn vehicles do not have air bags and roll bars or other overhead protections provided by an automobile.

Today, an injury occurring because of safety strap use would be very difficult to defend. Not tying or fastening people to horses or into horse drawn vehicles remains a “BEST MANAGEMENT PRACTICE.”

4. FENCED ENCLOSURES FOR PONY RIDES

The Question: Why must pony rides be done inside of a solidly fenced enclosure, when a customer’s backyard is already enclosed by a fence?

The Standards:

[PART ONE]

All pony / horse rides must be conducted inside of a suitably fenced enclosure. You must conduct all types of pony rides, whether hand-led or carrousel or sweep inside of a small, solidly fenced enclosure or ring, as this is one of the most important features for providing safest possible pony rides. This enclosure may not be larger than one acre in size and preferably be smaller according to the activity and number of ponies used at one time. The fence must be free of unmarked stakes, ropes, or other projections or hazards over which people might fall and become injured.

ENCLOSURE PURPOSE: *The enclosure or pony ring must provide a barrier*

between the ponies or horses and the general public. It is very important that children cannot just come running up to the ponies or horses. The intent is that the fencing will stop this from happening, as staff members should supervise and control all approaches to the animals by people. The other purpose of the fenced enclosure is to keep the ponies focused on their jobs, and to keep them from running very far or into a crowd of people if they should get loose.

[PART TWO]

DEFINING A PONY RIDE: *A “Pony Ride” is defined as rides being given, either for recreation or riding instruction, to children on ponies or to adults on horses within the constraints of a small enclosure by one of these means: 1. The rider sits on a pony or horse and the animal is hand-led and controlled by a staff member of the pony ride business. 2. A rider sits on a horse or pony and is led at the end of a rigid metal arm or extension of a mechanical carrousel, merry-go-round or sweep device that turns on center and is operated by the pony ride business staff members.*

WHAT A PONY RIDE IS NOT: *Allowing children or adults to ride while holding the reins with them being the person responsible for the control of the pony or horse is not a “Pony Ride.” Allowing any person to ride a pony or horse while being led or “ponied” by a handler from the back of another horse is not a “Pony Ride.” Allowing any person to ride a pony or horse while being led or “ponied” by a handler from the back of any type of motorized or non-motorized vehicle is not a “Pony Ride.” Allowing people to ride on or to drive a pony-drawn cart or other vehicle is not a “Pony Ride.”*

Answer: If pony rides are done correctly they can be quite safe, and NAHA Pony Ride Standards have proven to be very effective for many years. What we frequently see is people who have a few ponies want to start up a back yard or park pony party service as inexpensively as possible; they are hoping a trailer, ponies and tack will be enough to get started. NAHA’s position is that because the service is provided for children who depend so much upon adults for their safety, that pony ride operators must take their own demeanor and safety consciousness to a higher level and add sturdy portable pipe fencing to their equipment list, in addition to having an adequate number of properly trained staff and spotters.

When asked about fencing, some operators will say that they only operate in back yards that are fenced in. And our questions are these: What if there is no fencing, will you decline to do the job and lose the income? If a back yard is fenced, will the fencing always be adequate and where are the children and parents going to stand while they are waiting for their turn? In the neighbor’s yards? When giving pony rides, the operator needs to maintain a high degree of control to keep children from just running up to a pony and potentially getting kicked, stepped on, or run over by an animal. And what happens if the handler drops the lead strap and a pony runs off with or without a child on its back and there are people standing inside of the enclosure. A well-designed, portable pipe enclosure of correct size with controlled access and entrance points is an absolute necessity.

I know of one claim occurring in which an operator was unloading their ponies at a park in preparation for a pony party. They saw, but failed to control and give instructions to two little boys who were playing nearby and they did not unload the ponies into their portable pen (another safety practice when in a public area). One excited little boy ran up behind a pony, startled it and was kicked in the head – an injury that resulted in severe injury to him.

The other incident did not involve a pony ride, but certainly gives a view into what little children can do in a flash that have the potential to cause huge problems. This incident did not result in injury, but made everyone's heart skip a beat as they watched it unfold. I was teaching a clinic for a horse club in an arena. During a break, the big gates were opened, and a two-year-old girl got away from her mother and ran into the ring right up to a big three-year-old black Tennessee Walking Horse Stallion that the owner was riding. The horse was not yet well-trained, but of a very tractable nature, and how he reacted may say a lot for the temperament of plantation walking horses. The little girl screamed "Black Beauty" and proceeded to wrap her little arms around the stallion's front leg. The stallion only arched his neck to look down at the child, but he did not move a muscle, while a couple of us quietly moved in to scoop up the child and take it away from danger.

These are the types of incidents that can happen if a pony ride operator does not maintain careful supervision and control, and does not have that solid barrier fencing that NAHA Risk Reduction Standards require.

5. "PONYING" CHILDREN

The Question: What would be wrong with taking a child on a ride by "ponying"?

The Standard: *Please review The Standard explained in Question 4.*

Answer: When a guide is riding a horse and leading another pony or horse down the trail with a child or adult riding it, there are several factors for the operator to consider which increase the level of danger for the ponied rider and for others who are present on a ride. First of all, the horse being led will likely be smaller than the leading horse, and the ponied animal will be close behind the leading horse. If the leading horse becomes irritated by that closeness, there is increased potential for the shorter – lower rider to get kicked in the head, arm, shoulder, chest or knee. This would likely create a chain of control problems for the guide and for the whole group. And -what is your Safety Plan B and C, should you be leading the pony and you accidentally drop the lead rope? Or what if the lead rope gets caught and clamped under your leading horse's tail, causing it to react in a violent way? It is difficult to come up with a sound Plan B and C that will quickly mitigate those circumstances and multiple injuries to riders can occur.

6. BEACH RIDES & MOONLIGHT RIDES

The Question: Why will you not insure beach rides and after dark trail rides?

The Standard: *Night Time (After-Dark) Riding and / or Beach Rides are not allowed or insurable under the NAHA programs. NAHA does not insure or allow trail rides to be provided after dark. NAHA does not insure or allow 'beach rides', that is, rides involving the feature of riding alongside of or into an ocean, sea, or lake.*

Answer: Beach rides and moonlight rides sound like a lot of fun, and usually are. I have participated in these activities myself as a personal horse owner. The problem comes into play when these are services provided commercially to novices. That heightened degree of care that a commercial operator must provide to keep novice riders reasonably safe and to get help for them quickly if they are injured must again be considered. Sometimes we see problem patterns developing for a certain activity and it is difficult to develop a mitigation plan operators can carry out, so it is better to just stay away from insuring it. For a number of years we insured both of these activities, but started to notice injury statistics of a serious nature developing that we did not like.

Beach Rides: We are not absolutely sure about this, but on beach rides several factors seem to increase the danger to an unacceptable level. There is also a tendency for novice riders who should probably be doing slow rides only to want to fulfill their dream of racing at a gallop along a beach parallel to the water and through the waves. Secondly, is the fact that many beach rides are given on beaches where others are present who may be casting rods to fish, playing games, splashing in the water, bringing in boats, even driving small vehicles. Add to that the changes in wind and water action that can occur, and we believe the whole environment is too stimulating to provide novices with a reasonably safe ride every time. Some people think it is the drowning potential that is the problem, but it is not and we do not have a problem with operators carefully crossing a stream or river of reasonable depth or current, and we don't have a problem with taking a group of rider on horses to a quiet spot on the beach for a few minutes to enjoy the view and let the horses drink water.

Food for thought: I think it is important for operators to at least think about the horse's "high strung" nature as a prey animal when planning where to set up a public ride operation or horse facility. Novice riding horses can and should be highly desensitized to their environment, of course, to the degree that is possible. But we think there can be over-stimulating environments that keep some horses on edge enough that there is a higher potential to cause injuries to people than normal. Besides beach rides, we have also noticed more accidents occurring when horse rides are provided in fairly close proximity to amusement rides and also to animal parks with large wild cats.

Moonlight Rides: Commercially provided after-dark trail rides present an obvious problem. Quite simply, the lack of visibility is the problem for humans and so it is for the horses they ride also. It is difficult for a guide to see what is happening with the group, if a horse or rider is behaving well, if the trail ahead is clear of hazards, and if some nocturnal creature is present such as a skunk. When an accident occurs, we find that the witnesses present were not able to see what happened. "Everyone was in the dark!" This is what makes underwriters squeamish about insuring moonlight rides for novices.

7. HORSE DRAWN VEHICLE RIDE PASSENGER LISTS

The Question: Why must a Horse Drawn Vehicle Ride operator maintain passenger lists containing names, address and contact numbers?

The Standard: *RECORD KEEPING You must keep record of all passenger names, addresses, and phone numbers, the time they rode on the vehicle, identity of vehicle*

used, horses used, and drivers and assistant on duty. This can be done with a daily sign up sheet on a clip board. Keep these records on file for 10 years or as long as your legal counsel directs.

Answer: We confess that for a few operators this is a very unpopular standard. The operator may be serving many passengers in a day, and does not want to take the time to have them sign up on a clip board before entering the vehicle and / or departing on the ride. However, we strongly believe passenger record keeping is necessary to make an H.D.V. Rides Operations insurable and to protecting the operator and his future insurability. This is why: HDV Ride Operators who do not track and maintain such records can be a target for someone who wants to file a fraudulent claim against them. And, sometimes a claimant will get the name of one operator mixed up with another who operated in the same area on the same day, and a claim can be filed against the operator who was not involved at all. Without the record stating who participated, who was also present close to the time the alleged incident happened, which horses, vehicle, and driver attended, it can be difficult to impossible to prove you did not serve the claimant. You could potentially have a claim for a large sum of money on your record that should not be your responsibility, and this could affect your future insurability.

Prior to the requirement for record keeping, it was not uncommon for a claimant to “come out of the woodwork” six months to a year and a half after they had their alleged injury and file a claim / lawsuit against an HDV operator. The claimant may say they got stepped on by a horse, or they injured a knee or ankle when a horse stepped forward as they were getting on or off the vehicle, or some other scenario. Often, the operator was livid, claiming that they did not recall such an incident happening and they had no way of establishing if they provided the ride, who was present, and maybe even what driver and horse may have been on location. The operator is usually quite frustrated in such situations by the lack of information. And, this can be an investigation nightmare for an insurer which may result in a claim payment because of the lack of records.