

general tips on avoiding pre-purchase exam complaints and allegations of malpractice

Equine practitioners insured through the Trust program frequently report **complaints related to pre-purchase exams**. Here are some general tips to help you avoid malpractice allegations.

- Avoid conflicts of interest.
- Document that all parties waive conflicts of interest or decline the assignment.
- Obtain permission to disclose complete medical history and pre-existing conditions (document omissions and non-compliance).
- Document everything, including buyer declinations of procedures, such as radiographs, drug testing, etc.
- Document communications between parties (seller, buyer, agents, trainers), including phone calls, electronic communications, and verbal conversations.
- Positively identify the horse.
- Ensure accuracy and document age (tattoos, registration papers, dental arcade, microchips).
- Provide good quality imaging with complete radiographic studies.
- Obtain additional documented opinions of image interpretations when possible.
- Provide a comprehensive form indicating all systems examined, including ophthalmic, respiratory, neurologic, integument (scars), and reproductive; update as needed.
- Recommend drug testing for analgesics, anabolic steroids, behavior-altering medications, breed-specific genetic or inheritable diseases (HYPP, HERDA), etc; ensure blood samples are drawn prior to any treatments, such as sedation for radiographs.
- Consider providing pre-sale photography or video for conformation and serviceability documentation for absentee buyers.
- Consider the use of a pre-purchase exam liability release agreement.
- Provide the buyers with a final copy of the PPE report in a timely manner, including imagery, videos, and radiographs. Consider sending a hard copy via certified mail to officially document receipt.
- If emailing the final report, consider attaching a read receipt to the email.



This information provides general recommendations only and these general tips should not be construed as a representation of practice standards in equine veterinary medicine and pre-purchase exams.

absentee buyer PPE tips

- 1 When other parties (trainer, agent) are involved in the purchase, share all photos, videos and results directly with the buyer.
- 2 Prior to the exam, have a thorough understanding of the buyer's expectations and intended use of the horse.
- 3 Recommend drug testing.
- 4 Recommend that the buyer request all previous medical records.
- 5 Consider photographs and videos of the horse from all different angles and gaits.
- 6 If the buyer declines a recommended exam or procedure, be sure to document the declination in the PPE report.
- 7 Provide the buyers with a final copy of the PPE report in a timely manner, including imagery, videos, and radiographs. Consider sending a hard copy via certified mail to officially document receipt.

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Don't fall victim to these common pre-purchase exam claims!

Equine reported claims only account for approximately five percent of all claims processed annually by the PLIT-sponsored program, yet they represent the highest payouts and result in litigation much more frequently than small animal and production claims. The most common equine malpractice complaints are those involving pre-purchase exams (PPEs) and though the causes of PPE complaints are wide ranging, PLIT has observed a recent trend related to absentee buyers.

Often, these complaints stem from the unique veterinarian-client-patient relationship that exists in the equine industry. With many PPEs, the buyer communicates through an agent or trainer and not directly with the veterinarian. This situation sets the stage for missed communication

Closed Claims

Lawsuits may take years and thousands of dollars to resolve. Please also note that each claim is evaluated on its individual merit and circumstances.

Owner Demands \$112,000 from Dr. A for Lamé Horse

Dr. A was presented a horse for a pre-purchase examination. Dr. A asserted that the horse was sound, and the sale commenced for \$110,000. Prior to the PPE, Dr. A had a history of treating the horse, including performing intraarticular injections.

Three months post sale, the horse showed lameness in the left hind limb. Radiographs revealed a bone spur. The owner alleged that Dr. A missed the abnormality and negligently performed the PPE. The owner filed suit against Dr. A and the practice for the purchase price of the horse and \$2,000 in subsequent medical expenses.

Dr. A reported the claim to the PLIT office. The insurance carrier hired counsel to defend Dr. A and the practice. Dr. A believed that the standard of care had been met. During the PPE, the spur was not radiographically apparent, and the horse's performance did not indicate any injuries. The insurance carrier secured an expert witness and investigated the current market value of the horse.

Case discovery proceeded. After examining the case discovery, expert testimony, and peer claim review, the insurance carrier noted two issues with the case. First, Dr. A performed digital x-rays on the front legs but only fluoroscopy on the hind legs. The spur was unlikely to have developed in the three months following Dr. A's PPE; therefore, it appeared probable that the spur was missed on the fluoroscopy. Second, Dr. A failed to disclose prior treatment on the horse and its medical history. Ultimately, both the insurance carrier and Dr. A decided that the claim should move towards resolution.

The insurance carrier negotiated a settlement with the owner for \$75,000. Additionally, the insurance carrier paid more than \$49,000 in legal fees and expenses to defend Dr. A and the practice.

Owner Hires Attorney after Buying Injured Horse

Dr. B was presented a horse for a pre-purchase examination. Dr. B found a right hind-limb lameness, performed nerve blocks, and treated the horse with joint injections. The horse improved. The buyer believed the lameness was consistent with treatable joint issues and purchased the horse. Several months later, the horse's condition deteriorated.

*Pre-purchase exam complaints are the **leading cause of equine claims.***

The owner presented the horse to another veterinarian, who diagnosed a suspensory ligament injury. The horse had two surgeries, and its lameness did not improve. A review of the PPE radiographs confirmed that the lesion was present at the time of purchase.

The owner hired an attorney and alleged that Dr. B negligently performed the PPE. Dr. B reported the claim to the PLIT office. During the claim investigation, the PLIT program's insurance carrier determined that Dr. B was below the standard of care for not adequately reading the radiographs.

Dr. B agreed with the investigation and consented to settle the claim. The insurance carrier requested documentation from the owner to substantiate

the value of the horse and the post-incident treatment and expenses. The insurance carrier also secured an independent appraiser to provide a market value of the horse based on its pedigree and show history.

After reviewing the independent appraisal with the owner's attorney, the insurance carrier negotiated a settlement and paid the owner more than \$80,000 for the value of the horse, the medical expenses incurred with the second veterinarian, and the boarding and rehabilitation fees related to the surgeries. Additionally, the insurance carrier paid more than \$2,800 for the expert appraisal and case expenses.

Learn more about the Trust's resources for equine practitioners

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