

## Ethics: Resolving conflicts of interest at public auctions

By Jeffrey T. Berk, VMD

Horse sales at public auction have several phases, and each phase has its corresponding veterinary activity that can yield ethical dilemmas for the veterinarian. Days prior to the sale, the sales horses ship in to the sales grounds and are housed (and in some cases exercised) there until they sell. During this pre-sale period, consignors typically have the veterinarians of their choice available to either monitor the health of their horses or attend to health needs that arise. At the same time, the veterinarian becomes familiar with the health issues of certain horses and many times initiates and maintains treatment throughout the pre-sale period.



*Dr. Jeffrey T. Berk*

Similarly, buyers will employ veterinarians to work on their behalf for pre-sale evaluations of prospective purchases and/or post-sale evaluations of their purchases. It is not unusual for a veterinarian to be placed in a position where he or she is asked to do a pre- or post-sale evaluation of a particular horse by a longstanding client only to discover that the seller of that horse is also a pre-existing client. Since this situation is sometimes unavoidable, it is incumbent upon the veterinarian to have a protocol for handling such situations that demonstrates both transparency and honesty. In a perfect world, the veterinarian would work exclusively for either the buyer or the seller, but the mechanics of horse sales at public auction dictate otherwise.

First, regarding transparency, the veterinarian should always disclose to a potential buying client that he or she has been responsible for the care of the horse in question and offer the client the option to enlist the services of another veterinarian. Many times, the buyer will be comfortable with their veterinarian doing the exam in spite of the pre-existing relationship. There is a perceived advantage because this veterinarian knows the horse to some degree by virtue of having been its caretaker for several days or weeks. A problem arises when the horse has experienced health or soundness issues that have been attended to by the veterinarian. The dilemma for the veterinarian is this: he or she now possesses information that has been obtained on behalf of the seller. That information has been paid for by the seller and technically is owned by the seller. Now, working for the buyer, the veterinarian has information that may affect the suitability of the horse for that particular buyer and yet he or she is legally unable to

transmit this information to the buyer. The ethical dilemma is obvious; the solution may not be so obvious.

With regard to honesty, the findings obtained during the examination(s) are just that—findings—and should be communicated to buyer and seller in an identical manner, with the same degree of significance to each client. This becomes easier when findings are placed in risk categories and when that level of risk is clearly explained to both parties. What often happens is that in an attempt to serve both buyer and seller, the veterinarian tells the seller, “Your horse has xyz finding, and it probably won’t be an



*Dr. Berk performs an endoscopic exam prior to the 2013 Keeneland April Two-Year-Olds in Training Sale.*

issue”; and then turns around and tells the potential buyer, “This horse has xyz finding and it could be an issue.” The finding may have been communicated, but two different messages have been received. Honesty and transparency are crucial to the veterinarian’s ability to function at a sale when they have a pre-existing relationship with both buyer and seller.

Trying to work simultaneously for both buyers and sellers presents ongoing opportunities for potential conflicts of interest. At the sales, there are times when a perceived conflict of interest is unavoidable, but many veterinarians have found that the best way to minimize or avoid questionable situations is to work either primarily for buyers or sellers. In those cases where a potential conflict of interest is unavoidable, it is in the best interest of all if the veterinarian follows a well-planned protocol of honest and thorough communication of findings and the relative risk that they pose to both parties.

*Dr. Berk is an associate veterinarian with Equine Medical Associates in Lexington, KY., and a former chairman of the AAEP’s Professional Conduct and Ethics Committee.*