RESPONSE TO COMMENTS THOROUGHBRED RACING RULE 178 CSR 1

The Racing Commission received several comments on the proposed amendments and comments on portions of the rule not proposed for amendment in the Thoroughbred Racing Rule, 178 CSR 1.

The following is a summary of the proposed amendments, the comments, and the Racing Commission's response:

PERMIT AGE

A proposal to add the children and grandchildren of jockeys to the group of permit holders that are eligible to get a permit at age 16 was put out for comment. The proposed addition to the rule is underlined:

24.1.i. The Racing Commission shall not grant an occupational permit to anyone under eighteen (18) years of age. Provided, except that an occupational permit may be granted at sixteen (16) years of age for the children and grandchildren of licensed permit holders; licensed permit holders being defined for the purposes of this subdivision as owners, breeders, trainers, jockeys and veterinarians. An applicant may be required to submit a certified copy of his or her birth certificate in connection with his or her application for a permit.

There were no comments in opposition to this proposed amendment. The Racing Commission voted to move forward with this proposed amendment to the rule.

JOCKEY MOUNT FEES

A proposal was put out for public comment to amend Table 178-1 B, Jockey Mount Fees, to increase the minimum mount fees that owners/trainers must pay jockeys for riding their horses in races. Section 28.6.a. of the rule allows the horsemen and jockeys to negotiate mount fees at each racetrack; but sets the minimum mount fees in the absence of an agreement. Currently, the mount fees negotiated at Mountaineer and Charles Town exceed the minimums in Table 178-1 B because those tables were promulgated several years ago and have not kept pace with market prices. The Jockeys' Guild proposed that the Racing Commission update the minimums in the table to equal the mount fees that are currently agreed-to at Mountaineer (which are lower than those negotiated at Charles Town). There was no opposition to the Guild's proposal during the Commission's rule committee process. Further, no comments in opposition were received during the public comment period. The Racing Commission voted to move forward with these proposed amendments to the rule.

TRAINER/ASSISTANT TRAINER CONTINUING EDUCATION

Proposed amendments were put out for public comment to require trainers and assistant trainers to get four hours of continuing education each calendar year in order to maintain a current occupational permit. The continuing education courses may be taken online. Two of the four hours would be required to be focused on equine health, safety and welfare. If a trainer or assistant trainer has less than twelve racing starts during the previous 12 months, he/she can request an exemption from this requirement. West Virginia currently has no continuing education requirement for trainers and assistant trainers, although the Association of Racing Commissioners International (RCI) has had a Model Rule requiring such continuing education for several years. The Mid-Atlantic Racing Regulator group, of which WV is a member, is supporting a continuing education rule for all member jurisdictions which is consistent with the components described above.

No comments in opposition to this rule change were received. Comments in support were received from the Charles Town HBPA and the Mid-Atlantic Regulators group. The comment from the Mid-Atlantic articulates important public policy reasons for implementing this proposal. Therefore, Racing Commission voted to move forward with these amendments.

RIDING CROP

Proposed amendments to the rule were put out for pubic comment to regulate the use of the riding crop by jockeys during the running of the race. West Virginia's current rule governing the use of the riding crop is very limited and has not kept pace with industry developments that are being discussed both nationally and in the Mid-Atlantic Racing Regulator group. The proposed amendments would regulate the number of times that the riding crop can be used in a downward fashion to encourage a horse to respond and it would regulate the number of times the crop can be used in the upward position throughout the race. The proposed amendments would also authorize the Stewards to impose a range of penalties for violation of the crop rule.

The crop rule has been heavily debated and deliberated upon by the Mid-Atlantic Racing Regulator group and racing stakeholders. It has undergone several drafts and iterations since the Racing Commission put out for public comment the version that was the most recent at that time. At this point, a version of the crop rule has already been adopted in Delaware and Maryland. Pennsylvania is slated to adopt it in September. Virginia is expected to adopt it next year. A version has also been adopted in California and Kentucky.

The Racing Commission received comments from the Jockeys' Guild and the local horsemen in opposition to various parts of the rule as it was proposed for public comment. Since the rule was put out for public comment, however, the Mid-Atlantic Racing Regulator group has revised its proposed rule, changing the number of times that a jockey may use the crop in specified

circumstances and changing the circumstances in which a jockey can use the crop in an underhanded fashion.

After considering the public comments, the status of the rule in other racing jurisdictions, and the most recent iteration of the model rule proposed by the Mid-Atlantic, the Racing Commission voted to change the rule to conform with the Mid-Atlantic rule related to the number of times a crop can be used during the running of the race and the circumstances under which crop may be used underhanded. The Commission also voted to remove the penalty system for violations of the crop rule that was put out for public comment and replace the system with general language allowing the Commission and its Stewards to use discretion in determining whether a jockey should be penalized for violating the crop rule based upon aggravating and mitigating factors. The Commission believes that its revisions address the concerns expressed by the commenting parties and brings the rule in alignment with the versions recently adopted by other racing jurisdictions.

COMMENTS ON PORTIONS OF THE RULE THAT WERE NOT PROPOSED TO BE AMENDED

The Commission received two public comments, one from PNGI and one from the Charles Town HBPA, on portions of the rule that were not proposed for any change/amendment.

PNGI's comment seeks to have the Commission change rule language that pertains to how the Stewards determine whether to disqualify a horse during the running of the race for interference. The Charles Town HBPA's comment seeks to have the Commission change rule language pertaining to how the horsemen's bookkeeper distributes purse funds. Both of these proposed rule changes would be significant, and not technical in nature, if adopted.

The Commission's Thoroughbred Rule Committee, of which PNGI and the Charles Town HBPA are members, convened well in advance of the Commission putting any proposed changes to the rule out for public comment. The rule committee members were given the opportunity to identify proposed changes that they wished to discuss with the entire committee so that all racing stakeholders on the committee could have the opportunity to make their positions known, to deliberate, to negotiate, etc. Neither PNGI nor the Charles Town HBPA proposed these items for committee consideration. So, their presentation of these items in the public comment period is the first time that they have been proposed and were available for review by the Commission and its staff.

Since the stakeholders were unable to discuss these items during the Commission's rule committee process, it is unknown to the Commission as to whether or not any stakeholders have concerns about these proposals. As a result, the Commission voted not make any of the changes proposed by PNGI and the Charles Town HBPA. Instead, the Commission decided to defer these items to a future rulemaking cycle so that all stakeholders and Commission employees can weigh in on these proposals in the context of its rule committee process. The Commission also noted that RCI has not yet adopted a Model Rule pertaining to the disqualification issue raised by PNGI. Although, the Commission is aware that a Model Rule on this topic is currently under debate by RCI members. Deferring this item to a future rulemaking cycle may allow sufficient time for RCI to adopt a Model Rule which could be evaluated and considered by the Commission in the future.

SHOCK WAVE THERAPY

The Mid-Atlantic Racing Regulator group commented that the Commission should make minor, technical changes to its shock wave therapy rule. The shock wave therapy portions of the Commission's rule regulate the circumstances under which a horse can be treated with shock wave therapy, the circumstances under which a horse can race after having received shock wave therapy, and reporting requirements after treatment. The proposed changes are minor, technical changes to clarify the rule. One of the changes would make clear that the minimum ten day period in which a horse is ineligible to race after therapy starts on the day of treatment. The other change would clarify that it is the treating veterinarian who administers shock wave therapy who is responsible for reporting the treatment to a state racing veterinarian. Because these changes are minor and technical in nature, and serve to make he rule clearer, the Commission voted to adopt them.

MEDICATION RULES

The Commission put out several medication-related rule changes for public comment. All of them are RCI Model Rules and all of them have already been adopted by all of the Mid-Atlantic Racing states, including Virginia, Pennsylvania, Delaware, New York, New Jersey and Maryland. West Virginia is the only Mid-Atlantic state that has not yet adopted these rules.

One of the proposed medication-related changes was to amend the rule to lower the permissible post-race testing thresholds for Non-Steroidal Anti-Inflammatory Drugs

(NSAIDs) to conform to the Model Rule promulgated by the RCI. RCI updated and lowered these thresholds in December 2019 based upon evidence that previous, higher thresholds were compromising pre-race fitness evaluations of horses by state veterinarians. RCI concluded that NSAIDs mask pain which causes lameness in a horse to be masked in evaluating horses for racing fitness. Of the Mid-Atlantic racing jurisdictions, including VA, NY, NJ, DE, PA, MD and WV, only WV has not yet adopted these lowered NSAID thresholds. Many other racing jurisdictions outside of the Mid-Atlantic have also adopted them.

In concert with the proposal to adopt the lower NSAID thresholds, the Commission put out for public comment proposed amendments to the penalty guidelines for violations of the NSAID thresholds. Currently, the penalties in Table 178-1 E for NSAID violations are pegged to the higher thresholds in the previous iteration of the RCI Model Rule. In order to make the penalty guidelines consistent with the lower thresholds that were proposed to be adopted, the Commission proposed that the rule be amended to do away with the two-tier penalty guidelines for NSAID violations in Table 178-1 E and to establish one set of penalty guidelines for all NSAID violations. The penalty guidelines were proposed to be consistent with the penalties currently in Table 178-1 E in the column for NSAID violations at higher amounts. The proposed penalties were: First offense: Minimum fine of \$1,000.00 absent mitigating circumstances; Second offense: Minimum fine of \$1,500.00 and 15-day suspension absent mitigating circumstances; Third offense: Minimum fine of \$2,500 and 30-day suspension absent mitigating circumstances. Disqualification of the horse would also be imposed. These changes to the NSAID penalty guidelines would have brought the Commission's rule in agreement with RCI's Model Rule on this topic.

The Commission received comments in support of and in opposition to adopting these NSAID changes. After deliberating on the matter and considering the public comments, the Commission voted not to adopt these Model Rule NSAID changes. Therefore, the agency approved rule filed for consideration by the Legislature has removed these proposed amendments from the rule.

The Commission also put out for public comment adoption of the RCI Model Rule on the use of bisphosphonates. The Model Rule prohibits the use of bisphosphonates in horses under four years of age and regulates the use of bisphosphonates in horses four years and older. Bisphosphonates can be used in older horses to treat a condition causing lameness, but should not be used in younger horses because of its impact on bone modeling.

Having not received any comments in opposition to the adoption of this Model Rule, the Commission voted to adopt it.

The Commission put out for public comment the adoption of the most current version of the RCI Model Rule Uniform Classification Guidelines. The Racing Commission's rule that went into effect on June 9, 2020 has Version 14.0 (Jan. 2019) of the RCI Uniform Classification Guidelines in it. RCI's most current version that the Racing Commission is seeking to adopt is Version 14.1 (Jan. 2020). These Classification Guidelines are a comprehensive list of drugs and other substances that may be found in the horse in post-race testing. The list categorizes the drugs and substances based upon permissible and non-permissible use in the horse and serves as a guideline in determining the appropriate penalties for a positive drug test under the rules. RCI updates these Guidelines as new substances are found and analyzed.

The Commission also put out for public comment amendments to adopt the most current version of the RCI Model Rule Endogenous, Dietary or Environmental Substances Schedule. West Virginia's rule that went into effect on June 9, 2020 has Version 4.0 (Dec. 2018) of the Endogenous, Dietary or Environmental Substances Schedule in it. The RCI's most current version that West Virginia is seeking to adopt is Version 4.1 (Dec. 2019). This Schedule contains a list of substances that may be found in the horse through contamination or inadvertent exposure and is used as a tool to determine if the amount found in the horse is consistent with contamination or inadvertent exposure. It allows the Stewards and the Racing Commission to determine whether or not a post-race positive test for one of the substances on the list should be penalized or if penalties should be mitigated. RCI updates this Schedule as science permits.

The Commission did not receive any comments in opposition to adopting RCI's Uniform Classification Guidelines or RCI's Endogenous, Dietary or Environmental Substances Schedule. Therefore, the Commission voted to adopt them.

The Commission put out for public comment amendments to adopt the RCI Model Rule that makes a horse ineligible to race for fourteen days after having had an Intra Articular joint injection. West Virginia's current rule has the previous iteration of the RCI Model Rule on Intra Articular joint injections which is more permissive than the current Model Rule inasmuch as it makes horses ineligible for only seven days. Of the Mid-Atlantic racing jurisdictions, including VA, NY, NJ, DE, PA, MD and WV, only WV has not yet adopted this Model Rule. The purpose of the rule put out for public comment was to

lengthen the period of time after a horse has a joint injection in which the horse is eligible to race. RCI concluded that it was an equine health and safety issue to provide a longer period of time for an affected joint to heal before racing is allowed.

The Commission received comments in support of adopting this Model Rule and it received one comment from the Charles Town HBPA in opposition to adopting the rule. After considering the public comments and deliberating on the matter, the Commission voted not to adopt these Model Rule changes. Accordingly, the agency approved rule filed for consideration by the Legislature omits these proposed rule changes.



VIA FMAII

June 18, 2020

Mr. Joe Moore Executive Director West Virginia Racing Commission 900 Pennsylvania Avenue Charleston, WV 25302

Dear Joe,

Thank you to the West Virginia Racing Commission ("WVRC") for giving Hollywood Casino at Charles Town Races ("HCCTR") the opportunity to make a public comment on the proposed changes to the West Virginia Thoroughbred Rules of Racing. For the sake of simplicity during this comment period, HCCTR will keep its comments confined to one additional suggested rule change.

Much has been made of the fact that thoroughbred racing in North America is the lone, remaining holdout in the global racing landscape that adheres to Category 2 rules for disqualifications due to infractions committed during the running of the race. Put simply, Category 2 rules dictate a horse be disqualified for an infraction that would have altered the finishing position of the horse said infraction was committed against. By illustration, under this set of rules, a horse who ultimately won a race by fifteen lengths but bumped a horse who finished fourth, beaten 20 lengths but was likely prevented from finishing third would almost certainly be disqualified and placed fourth despite the foul having no impact on the relative results between the two horses in question. While not always that dramatic, these situations play out to some degree at every track in North American on a frequent basis.

There has become an increasingly vocal public outcry in the U.S. as more and more decisions made under these Category 2 rules have left bettors, fans, horsemen and track operators frustrated with what they perceive to be wildly inconsistent results emanating from the stewards stand. Make no mistake though. In many of these instances, the stewards are simply playing the cards they've been dealt and enforcing the rules on their books as they're supposed to. The decisions are often, unfortunately, a byproduct of a deeply flawed system.

This standard for adjudicating disqualifications stands in contrast to the Category 1 rules used around the world that HCCTR supports where, should a foul occur, it will only result in a disqualification if the horse fouled would have finished ahead of the offender if not for that foul.

In thoroughbred racing, we put so much stock in identifying the winner of the race that we allocate approximately sixty-percent of the purse for a given race to the winner. The horse emerging victorious receives more purse money than everyone else in the race <u>combined</u>. Finding and rewarding the best horse in the race is one of the bedrock principles the sport as a whole is rooted in.

With that short background and narrative now provided, HCCTR proposes the changes to the West Virginia Thoroughbred Rules of Racing included with this correspondence as Attachment A.

For those who might say a change to Category 1 disqualification rules will encourage jockeys to ride with a reckless abandon to win at all cost, those perpetrators could (and should) be dealt with by incurring fines or suspensions that discourage that behavior. There are other mechanisms to deter and punish these actions that do not include punishing the connections of the horse who was demonstrably best or the bettors who support our game and have had a clear and convincing win taken away from them. This is how the situation is dealt with everywhere else there's organized thoroughbred racing with one exception. Here.

While HCCTR understands that neither Category 1 nor Category 2 disqualification rules are perfect, allowing perfect to stand in the way of improvement would be foolish at a time the industry is in grave need of improvement. As such, HCCTR encourages the WVRC to be proactive in helping change the way our sport is adjudicated in North America and be a leader in embracing this much needed change.

Thank you for your time.

Regards,

Erich Zimny

Vice President of Racing & Sports Operations

ATTACHMENT A

- 45.7.b. The following provisions apply to interference, jostling or striking:
 - 45.7.b.1. A jockey shall not ride carelessly or willfully so as to permit his or her mount to interfere with, impede or intimidate any other horse in the race.
 - 45.7.b.2. No jockey shall carelessly or willfully jostle, strike or touch another jockey or another jockey's horse or equipment.
 - 45.7.b.3. No jockey shall unnecessarily cause his or her horse to shorten its stride or engage in other actions so as to give the appearance of having suffered a foul.
- 45.7.c. The following provisions apply to maintaining a straight course:
 - 45.7.c.1. When the way is clear in a race, a horse may be ridden to any part of the course, but if any horse swerves, or is ridden to either side, so as to interfere with, impede or intimidate any other horse, it is a foul, regardless of whether the four was accidental, willful or the result of careless riding.
 - 45.7.c.2. The effending horse may be disqualified, if in the opinion of the stewards, the foul aftered the finish of the rake, regardless of whether the foul was assidental, willful or the result of careless riding.
 - 45.7.c.29. If the stewards determine the foul was intentional, <u>willful</u> or due to careless riding, the jockey may be held responsible and his or her occupational permit may be disciplined.
- 45.7.d. The following provisions apply to disqualification:
 - 45.7.d.1. When the stewards determine that a horse shall be disqualified for interference, they may place the offending horse behind such horses as in their judgment it interfered with, or they may place it last. If the stewards determine a horse or its rider causes interference and finishes in front of the horse interfered with and if not for the incident(s) the horse interfered with would have finished ahead of the offending horse, the offending horse will be placed immediately behind the horse interfered with.
 - 45.7.d.2. If the stewards determine a horse or its rider causes interference and finishes in front of the horse interfered with but irrespective of the incident(s) the horse interfered with would not have finished ahead of the offending horse, the judge's placings will remain unaltered.
 - 45.7.d.3. The stewards may disqualify a horse from a race should they determine the rider has ridden in a dangerous manner.
 - 45.7.d.42. If a horse is disqualified for a foul, any horse or horses in the same race owned or trained by the same interests, may also be disqualified.
 - 45.7.d.<u>5</u>3. Possession of any electrical or mechanical stimulating or shocking device by a jockey, horse owner, trainer or other person authorized to handle or attend to a horse shall be prima facile evidence of a violation of this rule and is sufficient grounds for the stewards to scratch or disqualify the horse.
 - 45.7.d.64. Should the stewards determine that there is more than one (1) incident of interference in a race where disqualification is warranted, the stewards shall deal with the incidents in the order in which the incidents occurred during the race from start to finish; except in the case where the same horses are involved in multiple incidents. Once a horse has been disqualified, it should remain placed behind the horse with which it interfered. The stewards shall make a conscious effort to place and maintain as placed, every and all horses placed behind others for interference.
- 45.7.e. All horses shall be ridden out past the finish line in every race. A jockey shall not ease up or coast to the finish, without reasonable cause, even if the horse has no apparent chance to win prize money. A jockey shall give a best effort during a race, and each horse shall be ridden to win.



July 14, 2020

Joe Moore, Executive Director West Virginia Racing Commission 900 Pennsylvania Avenue, Suite 533 Charleston, WV 25302

RE: Non-Steroidal Anti Inflammatory Drugs.

Dear Mr. Moore:

Maryland and other racing jurisdictions in the Mid-Atlantic region, including West Virginia have been working collectively on a number of safety and welfare issues including medication issues that benefit and protect the horse. This platform has provided everyone in the region the opportunity to share ideas and develop regional uniformity which we all agree is necessary since horseman travel to virtually every state in the region to compete. One of those uniform concepts dealt with restricting the use of non-steroidal anti-inflammatory drugs (NSAID's).

In December 2019 the Maryland Racing Commission amended its regulations that would delete a provision that permitted the stacking of certain NSAID's at specific thresholds, reduce the permitted threshold for flunixin from 20 nanograms per milliliter of blood plasma to 5.0 nanograms per milliliter of blood plasma and phenylbutazone from 2 micrograms per milliliter of blood plasma to 0.3 micrograms per milliliter of blood plasma and eliminated any permissive threshold for diclofenac and firocoxib. These changes became effective February 1, 2020 and effectively changed the practice of administering any NSAID at 24 hours before a race to 48 hours before a race.

Maryland's experience since the effective date of this regulation has been positive. We issued 5 warnings during the first two weeks this regulation took effect and have not had any issues since then. Horseman did voice concerns during the initial implementation of these new thresholds but we were able to provide them with sufficient guidance to keep them from mistakenly violating the new restrictions.

Let me know if you have any further questions.

Sincerely,

J. Michael Hopkins Executive Director

Phone; 410-296-9682 | Fax; 410-296-9687 | Facebook: Labor.Maryland | Internet: www.labor.maryland.gov



401 W. MAIN STREET, SUITE 222 · LEXINGTON, KY 40507 · PHONE: 859-759-4081 · WWW.RMTCNET.COM

July 8, 2020

Joe Moore, Executive Director West Virginia Racing Commission 900 Pennsylvania Avenue Suite 533 Charleston, WV 25302

Dear Mr. Moore,

The RMTC offers its support for the following proposed changes to 178CSRI:

48.5 f. Bisphosphonates

Bisphosphonates are toxic to osteoclasts, cells that remove damaged bone. They have had application in human medicine in treating osteoporosis, a disease where the removal of damaged bone outpaces its replacement with healthy, new bone with the result that bone structure becomes increasingly fragile and susceptible to fracture. For racehorses, bone remodeling is the body's successful adaptation to the rigors of high-speed exercise as occur in racing and training. For remodeling to occur, the osteoclasts must remove diseased bone before healthy new bone can be deposited. Equine bone that fails to adapt and remodel is at increased risk of fracture. Multiple experts have raised concerns about the potential for bisphosphonates to impede or completely halt bone remodeling in the horse. The safety of bisphosphonates in horses engaged in high-speed exercise has not been studied and important questions remain about their potential to impact bone remodeling and risk of fracture injury. Two bisphosphonates have received FDA-approval for use in horses 4 years of age and older with label indication only for the treatment of navicular disease. Pending research that demonstrates safety for bisphosphonate use other than as indicated on the label, its use should be limited to just that.

49.2 Uniform Classification of Foreign Substances v 14.1

The RMTC supports adoption of this document but offers a correction on what appears to be a typographical error. Cannabidiol should be listed as 3/B, not 2/B. Cannabidiol

was unclassified prior to December 2018 when the RMTC made a recommendation for 3/B which was approved at the December 2-3, 2018 ARCI Model Rules and Board meetings.

49.6 b-e Non-steroidal Anti-Inflammatory Drugs (NSAIDs)—48 hour Restricted Administration Time

Further constraints on the use of NSAIDs benefit horse welfare and racing safety by providing the trainer, the attending veterinarian, and the regulatory (examining) veterinarian an improved ability to assess a horse's soundness and fitness to enter and race. Dr. Heather Knych and her associates at the University of California, Davis had shown that the anti-inflammatory effects of even a single administration of phenylbutazone ('Bute') or flunixin (Banamine) extend beyond 24 hours. Inflammation is a component of the body's healing process, but also serves as a warning that a tissue is somehow compromised and not healthy. This 'notification' by the body informs trainers and veterinarians that a horse's condition needs to be examined, addressed, and with sufficient time allowed for recovery and return to health. When the signs of inflammation (heat, pain, swelling, and redness) are suppressed—while the disease condition itself remains unresolved—there is a lost opportunity for intervention and increased potential for horse, and consequently jockey, injury.

Knych demonstrated that in horses treated with a single dose of flunixin the body's inflammatory response was suppressed and did not return to normal by end of the sampling period at 96 hours. Similarly, but more dramatically, a single dose of phenylbutazone suppressed the inflammatory response for up to 168 hours (7 days). Comparable work has not been completed for ketoprofen, but the manufacturer's once daily dosing schedule indicates that they have determined medication's effect persists beyond 24 hours.

Knych H.K., et al., Pharmacokinetics and effects on thromboxane B2 production following intravenous administration of flunixin meglumine to exercised thoroughbred horses. J Vet Pharmacol Ther. 2015; 38:313–20.

Knych H.K., et al., Phenylbutazone blood and urine concentrations, pharmacokinetics, and effects on biomarkers of inflammation in horses following intravenous and oral administration of clinical doses. Drug Test Anal. 2019;11:792–803

49.6. f Prohibition on stacking of NSAIDs

It is common to observe in veterinary treatment reports the administration of flunixin (Banamine) at 48 hours prior to a race followed by the administration of phenylbutazone (Bute) at 24 hours out. This was permissible under the previous ARCI Model Rules. A recent study by Knych et al. examined the anti-inflammatory effects of flunixin (Banamine) administered alone compared to flunixin followed by phenylbutazone—

consistent with the extensively used pre-race treatment protocol. The researchers determined that the combined NSAIDs induced greater suppression of inflammation and for a longer duration than with a single administration of flunixin.

Knych, H., et al., Pharmacokinetics and anti-inflammatory effects of flunixin as a sole agent and in combination with phenylbutazone in exercised Thoroughbred horses, Equine Vet J. 2020;00:1-15. https://doi.org/10.1111/evj.13260

49.16 14 day stand-down for all intra-articular (IA) injections

The original genesis of the 7-day withdrawal guidance for the use of IA corticosteroids, joint injections, was a philosophical decision made by a group of experts that included veterinary surgeons, veterinary pharmacologists, racetrack veterinarians, racing regulatory veterinarians, and analytical chemists. The intent was to ensure that a horse that received an intra-articular corticosteroid injection would be evaluated for its response to the treatment before being entered to race. Review of treatment reports and correlation with subsequent race dates after the implementation of the 7-day withdrawal period revealed two things: 1) Many IA treatments were being performed well inside 7 days, and 2) treated horses were going into races after joint injections with no history of a breeze (that would show how effective the treatment had been). A longer interval between treatment and racing will virtually require horses be evaluated, and allow for better-informed decisions about entering to race.

Knych has shown that betamethasone, triamcinolone and methylprednisolone (DepoMedrol) are detectable in joint fluid for longer than they can be detected in blood or urine samples. As an example, Triamcinolone was detectable in the joint fluid for up to 35 days, while only detectable in the blood for up to 7 days. She concluded, "These results suggest that the effects of intra-articular corticosteroids may still be present after drug concentrations have fallen below the limit of detection in blood and that perhaps less frequent or lower dose administration is warranted" and that "blood concentrations should not be used as an indicator of the duration of pharmacologic effect."

The proposed regulation addressed more than corticosteroids by prohibiting all IA injections within 14 days of a race. Often times other substances that can be injected into a joint have a low dose of corticosteroid added at the time of administration to reduce any inflammatory response to the physical process of inserting a needle into a joint. The reality is that these non-corticosteroid medications have a duration of effect that extends beyond 14 days and there is no evidence that their effect is enhanced by administration closer to a race

In consideration of the ongoing scrutiny horseracing is undergoing with respect to the health and safety of its horses, it is critical that the sport is able to defend that it is sending out healthy horses to compete, rather than horses demonstrating the illusion of health.

Knych H.K., et al., Pharmacokinetics of triamcinolone acetonide following intramuscular and intra-articular administration to exercised thoroughbred horses. Equine Vet. J. 2013, 45. 715.

Knych, H.K., et al., Disposition of methylprednisolone acetate in plasma, urine, and synovial fluid following intra-articular administration to exercised Thoroughbred horses. J. Vet. Pharmacol. 2014, 37, 125.

Knych, H.K., et al., Pharmacokinetics of betamethasone in plasma, urine, and synovial fluid following intra-articular administration to exercised thoroughbred horses, Drug Test. Analysis 2017, 9, 1385-1391.

49.17 Prohibition on stacking of corticosteroids

Another impetus for the 7-day withdrawal interval and corresponding thresholds for corticosteroids was to reduce the total amount of corticosteroid used. Withdrawal guidance was specific to a limited dose; if a veterinarian needed to treat multiple joints or use higher doses, the interval from treatment to race would need to be increased beyond 7 days. However, review of veterinarians' treatment reports has revealed in multiple racing jurisdictions the use of multiple (sometimes as many as 4) corticosteroids to treat multiple joints at 7 days. Each corticosteroid was administered in such a way that a concentration in a post-race sample would be less than the regulatory threshold. While not illegal, this activity subverted the intent of the regulation. It is also worth noting that the medications injected into the joints enter the blood stream and affect other tissues. Knych detected betamethasone in the joint fluid of an untreated joint on the leg opposite the one injected. There are systemic health implications when massive doses of corticosteroids (all of which have similar effect) are introduced into the body.

Knych, H.K., et al., Pharmacokinetics of betamethasone in plasma, urine, and synovial fluid following intra-articular administration to exercised thoroughbred horses, Drug Test. Analysis 2017, 9, 1385-1391.

178CSRI 1-F Schedule of Controlled Therapeutic Medications v 4.2

The RMTC supports adoption of this document but offers the revisions below to provide clarity to laboratories in the issuance of Reports of Findings and avoid potentially successful legal challenges should a laboratory report a finding of 1.9, when the threshold is simply listed as 1 rather than 1.0—which would allow for reporting of concentrations between 1 and 2. Alternatively, a laboratory that adheres strictly to 1 as the threshold cannot report any concentration below 2 because a violative concentration must be greater than the threshold PLUS the laboratory's Measurement of Uncertainty. This means that the potential exists for violative concentrations between 1 and 2 to go unreported.

Detomidine, change 2 nanograms to 2.0

Dimethyl sulfoxide, change 10 micrograms to 10.0

Methocarbamol, change 1 nanogram to 1.0

Prednisolone, change 1 nanogram to 1.0

178CSRI 1-G Endogenous, Dietary, or Environmental Substances Schedule $4.1\,$

The RMTC supports adoption of this document as it is presented.

Respectfully submitted,

Mary Scollay, DVM

Executive Director & COO

Racing Medication and Testing Consortium

May Chevelay 3



OWNER DIRECTORS
Jeanette McIntosh
Dennis Behrmann
Annette McCoy
Louise Poole

TRAINER DIRECTORS
Eddie Clouston
John W. Baird
Danny Bird
David Trehame

July 20, 2020

West Virginia Racing Commission 900 Pennsylvania Avenue Suite 533 Charleston, WV 25302

Dear Commissioners.

Thank you for the opportunity to express concerns regarding the proposed Thoroughbred Rules. We understand this is a laborious process that requires careful consideration and review of scientific data.

The Mountaineer Park HBPA voted to oppose the NSAID Stacking Rule (178-1-49.6.c) and the changes to the subsequent penalty table 178-1 E . When considering rules to protect the equine and human athletes and the integrity of our sport, we feel it is important to study the scientific data that surrounds medications. To our knowledge there is no scientific data that supports this proposed rule change. These medications are considered therapeutic by the Association of Racing Commissions International (ARCI). In contrast, there is data that supports our current rule as listed on the ARCI website. Our opposition is based on the scientific data

http://rmtcnet.com/wpcontent/uploads/Research-Status-of-Controlled-Therapeutic-Substances-February-2017.pdf that supports the administration of these medications given under the current standards. These medications do not impact the performance of the horse on race day. Medications that support the health of the horse by reducing inflammation but are not performance enhancing should not be eliminated to the point of ineffectiveness. While we understand the intent, we have not been able to review any scientific data to support the proposed changes to this rule.

The Mountaineer Park HBPA further supports the public comment made by the Jockey's Guild in reference to 178-1-45.7.f (Use of Riding Crop and Penalties). It is apparent that this rule is still being considered and modified by industry stakeholders. Until consensus is reached it is not prudent to move this rule through the process.

Sincerely

Jami Poole President July 20, 2020

Mr. Joe Moore West Virginia Racing Commission 900 Pennsylvania Ave. Suite 533 Charleston, WV 25302



RE:

Public Comment Regarding §178-1-45.7.f Use of Riding Crop and Penalties

Dear Mr. Moore,

Please accept this letter on behalf of the Jockeys' Guild and our members who regularly ride in West Virginia in opposition to the proposed changes to West Virginia Racing Commission's proposed amendment to §178-1-45.7.f. with regards to the use of the riding crop, as well as the proposed penalties.

The Jockeys' Guild represents professional jockeys and since 1940, the Guild has been recognized as the voice of the jockeys concerning the racing industry. Our Board is comprised of highly regarded jockeys, many of whom are members of the Horse Racing Hall of Fame. The Jockeys' Guild and our members are adamantly opposed to any animal abuse and believe that any person who abuses a horse should be fully punished for such occurrences. The safety of both our equine and human athletes is of upmost importance to the Guild and all of the jockeys. We must remember that it is the jockeys' lives and welfare which are at risk when there are risks to the equine athletes.

Any decision that is made with regards to the use of the riding crop must take into consideration not only the safety of the horse and riders, but also the impact on the industry itself, including the owners, breeders, betting public, as well as the millions of individuals whose livelihoods depend on horseracing. In light of the concerns with public perception, we recognize and are willing to have some limitations put on the use of the riding crop, so long as it is reasonable. The jockeys are willing to work with the industry to establish a uniform standard that can have the interest of the horse, while still allowing for the rider to use the crop as necessary for the integrity and perception of the sport. While the Guild and its members are supportive of any changes that improve the well-being of the horse, we do not believe that the current proposal is in the best interest of horse racing in general.

The Guild has been working with various parties in the industry, including discussing the matter with the ARCI Rider & Driver Safety Committee after the Model Rules referred it to them in December of last year as a result of the proposal that had been submitted by The Jockey Club. Additionally, we have had multiple meetings with many regulators who are members of the ARCI, as well as members of the Mid-Atlantic Strategic Planning Group and The Thoroughbred Safety Coalition.

The purpose of the ARCI Model Rules, which West Virginia typically adopts, is to have a uniform rule. However, the current proposal is based on a previous recommendation of the Mid-Atlantic and is actually no longer the policy being adopted by the Mid-Atlantic, including Maryland, nor what was presented by the Mid-Atlantic to the ARCI Model Rules Committee. Prior to the proposed language being presented to the West Virginia Racing Commission's rules committee, the Guild advised that this language had not been agreed to by the interested parties. However, the Commission chose to proceed moving forward with the rule adoption and has not yet made the necessary amendments to reflect the changes.

While the Guild is appreciative of the Mid-Atlantic Strategic Planning Group for the discussion and dialogue we had beginning in March, our members do not agree with the current proposal. During our discussion, there were compromises made by both the jockeys and representatives of the Mid-Atlantic Strategic Planning Group. With that being said, the riders still have great concerns about the rule being presented which could potentially have an impact on the integrity of the race. Additionally, we have serious concerns about the limit of allowing the riders to use to riding crop in the underhand manner as necessary. These concerns have been expressed by the Guild's co-chairmen John Velazquez and Mike Smith, both of who are Hall of Fame jockeys and well-respected in our industry, on behalf of all of our members.

In the interest of compromise, the jockeys, as the athletes who are the professionals riding the horse and risking their lives, were willing to agree to the proposal if the jockey was allowed to use the riding crop in the underhand fashion to the 1/8th pole and restricting the use of the riding crop of 6 times in the overhand fashion. However, the current draft of the West Virginia proposal does not include the language that had been adopted by the Mid-Atlantic Strategic Planning Group, which allows the jockey to the use the riding crop in the underhand position as needed to the ¼ pole. This is what was adopted in Maryland, and presented to the ARCI for consideration for a Model Rule. Additionally, the jockey is only allowed to the use the riding crop two (2) times in succession and then must give the horse a chance to respond before using it again.

We do believe that it is important to recognize that the use of the riding crop is necessary, not only for safety, but also for communication, control of the horse, and assurance of maximum placing. Riding crops allow the jockey a measure of control over the horse that can be critical in certain racing situations, especially in situations where the track is smaller, with tighter turns, such as those in West Virginia.

Unlike other equestrians, jockeys are limited in the aids that they have to maintain control of and communicate with the horse. Most equestrians have the natural aids of the leg, hand, seat, and voice, along with the artificial aids of the spurs and/or riding crops. Jockeys are limited in that they have their hands, voice, and to a limited extent, their legs. As a result of the riding position of jockeys, they do not have their seat. To restrict the use of the riding crop to the extent as proposed would further reduce their ability to communicate with their mount. While jockeys are not required to use the riding crop, some horses actually respond in a positive fashion when it is used to keep their focus. Others may shy away and not respond at all. As such, the jockeys should be afforded their discretion based on their mount, so long as it is being used in a professional and regulated manner. It must be recognized that horses are animals and every one of them is different. Furthermore, they are herd animals and often will not pass other horses without some form of encouragement.

Additionally, the proposed language has a penalty schedule that mandate grossly disproportionate financial penalties on West Virginia's jockeys and will create a point system, which to date, has only been proposed to be adopted in West Virginia. The economic impact on riders of these draconian penalties would be catastrophic. To have a point system as proposed does not make sense when the rules in which the penalties are being applied are not consistent throughout the region, let alone the rest of the United States. The proposed riding crop penalties are triggered even if there is no injury to, or even a mark, on the horse. The current regulations already prohibit excessive, brutal, and unnecessary use of the riding crop and requires inspection of the horse by a racing or official veterinarian, looking for cuts, welts, or bruises on the horse. We have serious concerns about stacking of violations within the same race and multiple violations within the same day. As such there needs to be a method to advise the Joekey of a riding crop violation immediately after the race in which the violation occurs so as to prevent accumulation of violations.

Furthermore, in general, there are many factors that are not being considered, or in the alternative, are misstated. We strongly disagree with the Commission's position that the proposed amendment will not have a significant statewide adverse economic impact directly affecting businesses. By so stringently reducing the ability of the jockey to encourage the horse to achieve its maximum placing, there will very likely be a reduction in wagers placed on West Virginia races. This means there is going to be a significant reduction in handle, which in turn will potentially impact the monies available for purses. Gamblers will bet on races in other states where responsible crop use is allowed because they are better able to handicap a race where jockeys are still allowed to give their best effort. Additionally, as the proposed restrictions will have a definite impact on the order of finish, there will be an economic impact on breeding and sales. If other jurisdictions throughout the country continue to allow responsible and regulated Use of the Riding Crop, owners and trainers may choose to relocate horses or leave the industry entirely. Potentially smaller fields in West Virginia will lead to decreased purses and quality of racing. The point system will create such severe suspensions for such minor infractions that the Guild is concerned West Virginia will end up with a potential shortage of jockeys. There will be several violations as many jockeys have trained instincts to use the crop in certain situations and in a specific manner, which goes against what is being proposed.

As the jockeys are the individuals who are risking their lives every day, and who are an integral part of racing, the concern of the riders must be heard and included before changes are made which we believe will have detrimental impacts on racing in West Virginia, and potentially other areas. The ultimate goal is to establish a standard that is in the best interest of the welfare of the horse, as well as the industry as a whole, including the betting public. We would respectfully request that any changes to the existing regulation be made after consideration and input from those who are actually in contact with the horses. The Guild believes that, we as the industry, including our members, the horsemen, racetracks, owners, and the regulators, must reach a mutually agreed upon regulation with regards to the use of the riding crop, that will be safe and humane to the horse, while still allowing the riders to use it in a way that is necessary for encouragement and correction, when needed. It is absolutely essential to create a standard of uniformity for the Use of the Riding Crop that all jurisdictions can adopt. Such uniformity would be in the best interest of the horses, enhance the perception of our industry, and still provide for fairness to the owners, betting public, horsemen, and the jockeys.

The Guild sincerely appreciates the Commission's consideration regarding the comments we have submitted with regards to the proposed changes to West Virginia Racing regulations regarding the Use of the Riding Crop. Please feel free to contact me via email at tmeyocks@jockevsguild.com with any comments regarding the proposed changes.

Sincerely.

Terence J. Meyocks President & CEO

Teinforeyord

Maria Catignani, Charles Town HBPA CC:

Jana Tetrault, Mountaineer HBPA Mindy Coleman, Jockeys' Guild

Jeff Johnston, Jockeys' Guild



ASSOCIATION OF RACING COMMISSIONERS INTERNATIONAL

July 20, 2020

Mr. Joe Moore, Executive Director West Virginia Racing Commission 900 Pennsylvania Avenue, Suite 533 Charleston, WV 25302...

Delivered via email.

Dear Mr. Moore:

I write to urge the Commission adopt the proposed rule pertaining to continuing education for horse trainers. This rule is consistent with the ARCI Model Rules and we collectively urge each racing jurisdiction to approve this program which will protect horses by raising the degree of horsemanship through current and applicable information presented.

The regulators generally have been concerned that in some parts of the country horsemen may not be aware of the latest research affecting equine care and how to safeguard the health of our horses.

The RCI has long supported continuing education for trainers and West Virginia's adopting of this requirement would be a major step forward in protecting horses in your state.

On the pending proposal to modify the crop rule, the ARCI does not take a position on this other than to say that we are in the process of revisiting this issue and the current Model Rule may change. We understand that a number of regulatory agencies have participating in the formulation of the Mid-Atlantic proposal, but we are not in a position at this time to indicate whether that will or will not become the national standards. That being said, we applied the Mid-Atlantic jurisdictions for their attempt at regional uniformity on this issue.

I hope these comments are helpful.

Sincerely.

Edward J. Martin President/CEO.

2365 Harrodsburg Road- B450 Lexington KY 40504 - (859) 224-7070



Philip A. Reale, II philip@wvreale.com

July 20, 2020

West Virginia Racing Commission 900 Pennsylvania Avenue, Suite 533 Charleston, WV 25302

Re: Official Comments to Proposed Amendments to Thoroughbred Racing Rule 178 CSR I by Charles Town HBPA, Inc.

Dear Sirs:

The undersigned represents the Charles Town HBPA, Inc, sometimes herein referred to as CT HBPA. What is contained in the body of this letter shall serve as the official comments of Charles Town HBPA, Inc. to the amendments to Thoroughbred Racing Rule 178 CSR 1 proposed by the West Virginia Racing Commission (the "Commission") and filed with the office of the West Virginia Secretary of State on June 18, 2020. The comment period provided for in the notice of rule expires on July 20, 2020 at 5:00 p.m.

Charles Town HBPA, Inc. is a member affiliate of the National HPBA and is tasked with protecting the general welfare of the thoroughbred racing industry, including the interests of nearly 3,000 horsemen, horsewomen, their employees, and the families of backstretch personnel associated with the racetrack at Charles Town, West Virginia. Charles Town HBPA, Inc. is thankful for the opportunity to respectfully comment and offer its insights into various provisions within the changes being proposed to existing 178 CSR 1.

CT HBPA has carefully reviewed the proposed amendments as discussed sequentially below, and while the CT HBPA can support, or support with modifications, some of the proposed amendments, it believes that certain of the amendments proposed by the Commission are ill-suited to West Virginia's thoroughbred racing landscape, fail to represent a consensus view within the scientific and veterinarian community, create significant legal and practical issues, interfere with commonly accepted best veterinary practices, will endanger horses and humans, and should not be adopted in their current form. It is very important to generally observe that the West Virginia Racing Commission (WVRC) must be cautious in the proposal of dramatic changes in the use of medications to humanely treat thoroughbred horses domiciled, trained or raced in West Virginia so as not to eliminate what is good by trying to eliminate that which may be bad.

§178-1-18. Racing Commission Veterinarian(s).

Section 18.1.z. cause the Uniform Classification Guidelines for Foreign Substances as promulgated by the Association of Racing Commissioners International (RCI), Version 14.0 14.1 (revised January 2019 2020), set forth in table 178-1 D at the end of this rule, any medication/substance thresholds set forth in section 49 of this rule and in the Association of Racing Commissioners International Controlled Therapeutic Medication Schedule, Version 3.2 4.2, contained in table 178-1F at the end of this rule and the Association of Racing Commissioners International Endogenous, Dietary, or Environmental Substances Schedule, Version 4.0 4.1, contained in table 178-1G at the end of this rule, to be publicly posted in the office of Racing Commission veterinarian(s).

In reference to Table 178-1 D, ARCI Uniform Classified Guidelines for Foreign Substances and Recommendations Penalty Model Rule version 14.2, there does not appear to be any significant change to the substances listed in version 14.0. Given that assumption, CTHBPA offers no comment to this proposed change.

Table 178-1 F ARCI Controlled Therapeutic Medication Schedule, Version 4.2.

Under the current version, which is Version 3.2, it is permissible to use two of the NSAIDS listed in the chart, provided neither the primary nor secondary medication exceed the listed thresholds provided therein. There are three substances in this category, and they are listed as drug class 4 penalty class C, far removed from much higher-grade medications associated with performance enhancement. Currently, if two NSAID substances are found in a horse's system and one or both exceed the threshold level, this is considered a singular violation. It is common and therapeutically beneficial practice for horsemen to use any of these two NSAIDS together.

By the ARCI definition of class 4 drugs, substances in this category are comprised primarily of **therapeutic** (emphasis added) medications routinely used in racehorses. There has been no scientific evidence to prove the level at which these therapeutic substances (by ARCI definition) may improve performance.

Essentially the proposed rule changes will limit the ability of trainers to administer therapeutic medications to benefit the horse in relieving minor aches, pains and stiffness at dosage levels for a 1000 pound horse that are substantially less than that which human beings often take for aches, pains and stiffness. Requiring intravenous doses of any of these substances without giving consideration to administration in powder form unnecessarily increases the expenses and availability of pain relieving and inflammation curing medication. Powder and pill form are less expensive, readily available and do not require an injection by a veterinarian. The administering of a pill with such minimal NSAIDs content by a trainer, is a means of efficient and economic therapeutic value to the horse when needed.

CT HBPA objects to a policy of the nature being suggested in the proposed rule changes in that it can be detrimental to the humane treatment of the thoroughbred involved. Conventional common drug therapy for inflammation of joints and ligaments should be acceptable in dosages now permitted. There is no body of scientific evidence to suggest otherwise.

The proposed rule also addresses NSAIDs and intra-articular injections. Each will be discussed separately next below.

NSAIDs

Note that the in the proposed changes to the rule, primary threshold levels for two of the three NSAIDS have been decreased. The flunixin acceptable threshold decreased from 20 nanograms/ml to 5 nanograms/ml, a reduction of the currently permitted threshold of 75 percent. The threshold for phenylbutazone decreased from 2 micrograms/ml to .3micrograms/ml or an 85% reduction from the current threshold. Additionally, the withdrawal guidelines for all three substances were increased - Flunixin by 16 hours, and Ketoprofen and Phenylbutazone each by 24 hours. The rule does not provide for any secondary threshold level. These levels are extremely low and less than what human beings might typically take for common ailments. Still, the most negative aspect is that the proposed rule effectively eliminates practical use of NSAIDs in combination, something which has proved to be humanely valuable to the care of a racehorse. Regrettably, there does not appear to be any clear evidence that the proposed change is supported by scientific conclusion in veterinarian science. In fact, there is evidence to the contrary, and supported by the conclusions drawn by a representative group of the North American Association of Racetrack Veterinarians (NAARV) as shown in a summary thereof generated by Dr. Clara Fenger, DMV, PhD, DACVIM, published June 30, 2020, a copy of which is appended hereto as Appendix A to the comments.

It should be noted that the aforesaid summary was endorsed by 35 racetrack veterinarian practitioners from our neighboring state of Kentucky, the centerpiece of the U.S. thoroughbred world. This gives a certain amount of question as to the propriety of what is being suggested in the proposed rule and furnishes ample reason for pause and reflection on what is best for West Virginia thoroughbreds, their trainers, owners and veterinarians. One must ask that if the proposed changes in regard to NSAID represent a healthier therapeutic treatment for pain and stiffness caused a thoroughbred due to inflammation, why would so many veterinarians in the state that is the thoroughbred capitol of America disagree?

Further, the proposed rule makes it extremely risky for a trainer to use more than one NSAID. For example, if a horse is found to have phenylbutazone in its system and it exceeds the .3 microgram limit, that constitutes a penalty. In addition, if the horse is also found to have flunixin or ketoprofen in its system, even just a trace, this is considered a stacking violation based on "limit of detection" and is a secondary violation. It is a commonly observed practice by trainers and veterinarians to often utilize a combination of NSAIDS to achieve the desired therapeutic result in the best interest of the racehorse.

Additionally, in changes proposed for 178 CSR 1.49.f, the presence of two or more NSAIDS in blood and/or urine constitutes a NSAID stacking violation regardless of how miniscule the presence thereof might be. The stacking provisions sought to be adopted in the proposed rule may be excessive, punitive by nature and not necessarily in the best interest of the thoroughbred. Initially, it is noted that the stacking provision does not take into consideration background environmental contamination. Flunixin and naproxen often occur within the stable environment and could result in trainers being unjustifiably punished for something they did not do. Likewise, it might cause them to hire scientific experts that cannot afford but which are necessary to advance their defense against charges.

It has been suggested that more appropriate thresholds have been suggested in other venues and industry organizations which should be carefully considered as more realistic and practical for both horses and trainers to provide recognizably better health care for the horse that experiences muscle cramping. In this regard it is noted that a primary indication for the administration of NSAIDs on the day before a race is actually to facilitate training of a horse that "ties up". "Tying up" is a painful muscle cramping condition that, in its most severe form, can endanger the very life of the horse. Reportedly, this is a condition that is found in as many as 25 percent of horses in training. It is said to be a heritable condition, affecting both thoroughbreds and standardbreds.

Standardbreds may actually "ty up" during races, while thoroughbreds experience the condition during training but not during races. At this very time, experts on muscle pathology in horses are studying how best to treat this condition. Research is ongoing, but it is incomplete at this time. There are no conclusions to report as to an alternative to utilizing medication as is presently being used. It is reported that many of the medication overages experienced today are intended to prevent this condition. They include Robaxin, acepromazine, xylazine, dantrolene and dexamethasone. Substances that are now banned, including anabolic steroids and cobalt, formerly were used to prevent this condition.

It is strongly suggested that more conclusive scientific recommendations be chronicled to justify a change in the existing rule prior to adoption of a rule that may unintentionally result in less humane treatment of thoroughbreds domiciled and trained in West Virginia.

Intra-articular Injections

The CT HBPA comments that Intra-articular (corticosteroid) injections are used in horses with joint issues. The anti-inflammatory effects are useful to treat overall joint health but should be offered in conjunction with best veterinary medicine practices. There is an assumption being made that if a horse has had an injection that it must or should be restrained from racing for at least 14 days from receiving the injection. That, of course would make sense if the effect of the injection was such that the horse had not recovered from the joint injury for which the injection was made. It is said that the purpose of any stand down period is to determine just whether the horse is suffering from minor synovitis or joint inflammation, as opposed to something more severe such as a stress fracture. There is a clear correlation between joint health of the horse and corticosteroids when confronted with joint injury, but not all joint injuries so treated require a 14-day respite from racing. Not all injuries are the same and a "one-size fits all solution" should

not preclude certain horses that receive intra-articular injections from participating in a race sooner than 14 days from the date of it being injected.

This is yet another area of the proposed rule changes in which there is significant lack of consensus within the field of veterinary science as to the appropriate medical policy to implement in these circumstances. Prior to advancing policies of this nature, the CTHBPA comments that further evaluation of the subject of Intra-articular injections in this context should be made by the WVRC, including the solicitation of expert opinions from multiple experts or comprehensive review of published findings of scientific studies on this subject by state veterinarians who shall report to the WVRC their findings. Until then, the proposed changes to existing rule in this particular should be held in abeyance.

§178-1-24. General Provisions Applicable to All Permit Applicants and Permit Holders.

§178-1-24.1. Permit Required. The following provisions apply to permit requirements:

"The Racing Commission shall not grant an occupational permit to anyone under eighteen (18) years of age. Provided, except that an occupational permit may be granted at sixteen (16) years of age for the children and grandchildren of licensed permit holders; licensed permit holders being defined for the purposes of this subdivision as owners, breeders, trainers, jockeys and veterinarians. An applicant may be required to submit a certified copy of his or her birth certificate in connection with his or her application for a permit."

The CT HBPA believes the omission of "jockeys" in the current rule to be an inadvertent omission. The CT HBPA supports the inclusion of "jockeys" as a proposed amendment to the rule.

§178-1-26. Trainers.

§178-1-26.1. Permit Requirement for Trainers.

This rule proposes continuing education and improving one's knowledge base. The program specifically targets health, safety, and welfare topics. In addition, continuing education would be a condition to maintaining a current permit.

The CT HBPA supports this recommendation and will welcome the challenge to assist in the facilitation of continuing education services to the industry members at Charles Town.

§178-1-45. Running of the Race.

§178-1-45.1.a. All riding crops are subject to approval and enforcement by the stewards and inspection by the clerk of scales <u>and outrider</u>, and shall meet the following requirements: (As set forth)

CT HBPA has no issue with the outrider inspecting the crop and believes this modification to the existing rule to be appropriate.

§178-1-45.7.f. The following provisions apply to the use of a riding crop: (Various and sundry provisions contained in this subsection.)

There are a considerable number of proposed changes regarding use of the crop, as well as the addition and modification of penalties for violation of crop rules. What has been proposed by way of modification of riding crop rules does not comport with what is suggested by the Jockeys Guild, the MD Jockey Club, or the Mid-Atlantic Regulators Group. Moreover, reportedly there is no consensus among these groups as to what the appropriate policy in this area of thoroughbred racing should be. If the goal is for there to be uniformity of rules in the mid-Atlantic region, it is not prudent to pursue a rule until consensus exists. Formal dialogue and discussion among the stakeholders in the region should be facilitated. Otherwise, jockeys who ride at Charles Town or Mountaineer Park one day or evening and in Pennsylvania, Ohio or Maryland the next will be faced with varying rules. In consideration of the risks jockeys take each time they mount a horse, as well as the safe run by their horse, it is only fair that a set of consistent rules regarding the utilization of riding crops be the industry and regulatory objective.

The riding crop is an effective tool to be utilized for the safety of the jockey and the horse, as well as for performance, not only in creating an urgency in the context of the race, but as a navigational aid during the course of the race. Because the of the size of the Charles Town track, it would be more reasonable to allow use of the crop in the underhand position prior to the 1/8 pole when the riders are coming down the lane instead of the 1/4 pole when they are coming around the turn. As a matter of safety for jockeys and horses this would be a prudent reform of the proposed rule, although consistency subject to adaptation for anomalies such as length of track should be taken into consideration.

Regarding the penalties, the proposed rule has no provision for suspensions in lieu of a fine for a first offense at any class level. This provision exists in the comparable Maryland rule and the proposed rule should be modified similarly. The subjective measuring of what is or is not a violation of this rule is inescapable. How one person perceives an action in a flurry of activity like a bunched field of horses coming down the stretch and how another sees that same action will lead to significant debate and likely protest. If the objective of the Mid-Atlantic Regulatory Group is to promote consistency within the body of racing rules in the region, it seems somewhat disingenuous for the WVRC to promote something different from Maryland. Jockeys in West Virginia should receive the benefit of a suspension in lieu of fine for first offense just the same as in Maryland.

The ability of the jockey to be allowed to correct or encourage the horse is unclear, as it has been deleted. The stakeholders most invested in this rule, the jockeys, are not in favor of this rule as it is proposed. The proper utilization of a crop is essential for the safety of jockeys and horses and occurs during the heat of the race and deployed pursuant to split second decisions to guide and steer horses as well as to encourage their peak performance. The ability to govern and judge each instance of use of the crop by multiple jockeys at the same moment is difficult at best

and absent some compelling reason for changing this rule at this time, CT HBPA suggest further study and most certainly dialogue with jockeys and trainers who know this issue best.

The movement of thoroughbreds and jockeys between West Virginia, Maryland, Pennsylvania and Ohio racetracks, as well as other racetracks throughout the country, alone justifies working with interested parties to form a consensus on what the composition of this rule should be. Consistency of policies governing the use of a crop by a jockey is paramount to the safety of both jockeys and horses.

The CT HBPA does not support this recommendation as currently written and suggests deferring a change until such later date as may be necessary in order to forge a consensus among the vested constituencies, giving much credence to the recommendations of the Jockeys Guild.

178-1-48. Veterinary Practices.

§178-1-48.5. Prohibited Practices. The following are prohibited practices: Use of bisphosphonates

Bisphosphonates are used for treating navicular syndrome in 4-year old's and up. It is a reasonable treatment. However, use in younger horses may appear to falsely improve bone growth, and potentially mask defects in the younger horses, and thus potentially increasing breakdown rates. CT HBPA does not object to this proposed change in the current rule.

§178-1-49. Medications and Prohibited Substances.

§178-1-49.1 through §178-1-49.3 (all)

The proposed rule changes in these sections are adoptions by reference of the updated ARCI rules for Uniform Classification Guidelines for Foreign Substances version 14, for which the CT HBPA makes no comment.

§178-1-49.4. Medication Restrictions. The following provisions apply to medication restrictions:

§178-1-49.4.a.2. Controlled therapeutic medications in excess of established threshold concentrations as set forth in the Association of Racing Commissioners International Controlled Therapeutic Medication Schedule, Version 3.2 4.2, contained in table 178-1F at the end of this rule.

The CT HBPA does not support this recommendation. This rule is directly related to 18.1.z., for which comments have earlier been made. CT HBPA does not support adopting the ARCI Controlled Therapeutic Medication Schedule, Version 4.2, contained in table 178-1F at the end of this rule due to the proposed NSAID rule changes. Rather than restate that which has been stated earlier herein, the same is incorporated by reference to pages 2, 3 and 4 of this document. Further, reference is made to Appendix A attached hereto in relationship to this issue and it is likewise incorporated by reference as if set forth verbatim herein.

§178-1-49.6. Non-Steroidal Anti-Inflammatory Drugs (NSAIDs). The use of NSAIDs shall be governed by the following conditions:

The CT HBPA does not support this recommendation. See pages 2, 3 and 4 of this document referring to rule 18.1. To the extent adoption of the designated table of the ARCI Controlled Therapeutic Medication Schedule, Version 4.2, would severely limit the non-performance enhancing use of NSAIDs, horses lose the inexpensive therapeutic value for pain and stiffness relief that should be humanely provided them. For all of the arguments previously advanced in these comments, CT HBPA opposes adoption of the proposed changes to §178-1-49.6.

§178-1-49.16. Intra Articular Joint Injections.

For reasons earlier set forth, CT HBPA contends that there is extrinsic value to the application of intra- articular joint injections — a valid treatment to prevent serious joint illness and injury. Additionally, CT HBPA includes and incorporates by reference the provisions of the June 30, 2020 composition of Dr. Clara Fenger, DVM, PhD, DACVIM and endorsed by no less than 35 Kentucky racetrack veterinarians contained in Exhibit A attached hereto and which under Item II specifically addresses this subject.

§178-49.17. Corticosteriods.

The CT HBPA supports the recommended change.

TABLE 178-1 B JOCKEY MOUNT FEES

The CT HBPA supports this recommendation.

Table 178 - 1 E

We agree that Lasix and NSAIDs should carry a category C penalty. However, because we disagree with the proposal to decrease the threshold levels for NSAIDS, increase withdrawal times and eliminate secondary threshold levels, we oppose theses penalties. See CT HBPA comments on pages 2, 3 and 4 hereof in regard to. Rule 18.1.z and Table 178-1 F. The reasons for the CT HBPA position in regard to such have been fully stated in these earlier comments and are further validated in part by the information found in Appendix A hereto and to which reference is made.

The CT HBPA requests the §178-10-3.c be amended:

Respectfully, CT HBPA requests that §178-10-3.c be modified in order to avoid a prevailing circumstance wherein purse disbursements are withheld from owners while test results are being determined. This can result in as much as a 3 week wait before horsemen get compensated from the owners for work performed and for which money is due. This of course can lead to financial hardship in many instances.

The recommended action is indicated in the language below with the underscored and red font being the suggested changes.

"The horsemen's bookkeeper shall disburse the purse of each race and all stakes, entrance money, jockey fees, trainer 10% gross commission, and purchase money in claiming races, along with all applicable taxes, upon request, within 48 hours of receipt of notification that all tests with respect to such races have cleared the primary testing laboratory as reported by the stewards or the Racing Commission, except that minimum jockey mount fees may be dispersed prior to notification that the tests have cleared the testing laboratory(ies) "Provided however, an owner may receive their purse award within 48 hours of the running of the race by signing a waiver specifying that in the event that there is a medication overage/violation that each such owner shall sign an agreement to reimburse the purse account within 24 hours of such order by the Stewards. In the event the owner fails to reimburse the purse account the Stewards may suspend the license of the owner and enter into the ARCI data base for trainers and owners, the reason for such suspension until reimbursement has been satisfactorily made to the purse account together with such other fees and fines determined by the Stewards."

Adding the trainer's gross commission to the list ensures the trainer is being compensated for training of the owner's horse. It enables the trainer in many instances to avoid financial hardship due to the current circumstances created under the existing rule. Under the current provisions of the rule, horsemen are waiting two weeks or more for test results to clear. By the time the owner makes a written request to the track and the check is written, it is at least three weeks before the horsemen receive his or her earnings. By industry standards, West Virginia is an outlier in the amount of time it takes an owner to receive his win money. By the owner guaranteeing reimbursement, the purse account is protected, and if he or she does not comply the owner faces suspension.

The CT HBPA respectfully requests this rule be amended and added to the Rules of Racing being advanced through the current Legislative Rulemaking Review process.

The CT HBPA further respectfully requests the following rule be added under the Horseman's Bookkeeper section being §178-1-10.3:

The Horseman's Bookkeeper shall deduct the standard 10% gross commission for Trainers from all starters that finish first, second or third in all overnight and stakes races after purses are released.

- a. Trainers must enroll in the program in advance.
- b. Trainers must complete the enrollment form, attach an IRS Form W-9, and submit to the bookkeeper.
- c. Applications will be processed and verified within 30 days of submission of the required paperwork.

This serves to establish a process which trainers would follow in order to receive the 10 percent gross commission provided for should the CT HBPA recommendation be advanced and become part of the rule as it moves through the process.

CT HBPA and its over 2000 members appreciate the opportunity to publicly comment on the pending amendment to the thoroughbred racing rules of the West Virginia Racing Commission. Our primary interest and motivation as to our comments is to protect the interest of our members and, foremost, to ensure our stock in trade — our horses — are afforded the best and safest of treatment and care. It is our position that the limitations posed on treatment of our stock in trade for common injuries and conditions through medically accepted and recommended medicines and applications by the proposed amendments, is not in the humane interest of our thoroughbreds nor our members. The time and efforts of the members of the West Virginia Racing Commission is recognized and genuinely appreciated along with all their efforts to responsibly govern this valuable activity and industry in our state.

Respectfully submitted,

Charles Town HBPA By Counsel:

Philip A. Reale

WV State Bar ID# 3029

Frilip A. Reale



P.O. BOX 55168 | LEXINGTON, KY 40555 | TEL: (859) 429-0652 | FAX: (859) 813-5249

June 30, 2020

Legislative Review Committee

Re: New regulation approved by the Kentucky Horse Racing Commission

I am a veterinary specialist in Internal Medicine, an active scientist, racehorse owner and breeder. I am the Secretary of the North American Association of Racetrack Veterinarians, which represents all of the private racetrack practitioners in Kentucky.

The reasons that these medication regulations should be considered deficient are:

- 1. The reason that these new medication regulations have been proposed by the KHRC is because of severe and fatal injuries affecting racehorses in the course of training and racing.
- 2. These recommendations are a knee jerk reaction for the purpose of being seen to do something to protect the equine athletes.
- 3. Because there is no basis in science or fact for these provisions, there is a great risk of actually making the problem worse rather than solving the very real problem of injuries in horse racing.
- 4. All of these provisions are currently in place in California, as part of a larger initiative...with no demonstrable effect on the injuries. Recently, breakdowns at Santa Anita were dropped on the main track, but not overall, indicating that changes to the main track surface were beneficial, but NOT other provisions of the initiative.
- 5. As has been seen in the recent pandemic, knee-jerk recommendations in order to do something, anything, in the face of a crisis have every likelihood of back firing
- 6. Time to carefully conduct objective scientific studies, transparency in the results of those studies before such far reaching regulations are implemented are both necessary and have NOT been done.

Specifically: I. Ban on Lasix in 2 year old horses:

- a. Lasix unequivocally mitigates pulmonary hemorrhage.
- b. Pulmonary hemorrhage is a well described disease of the racing horse.
- c. There is no evidence that Lasix contributes to physical injury of horses.



- d. Lasix is highly regulated and its use in racing is transparent to the public, designated by an "L" in the program
- e. Fatigue contributes to physical injuries in athletes.
- f. Pulmonary hemorrhage leads to premature fatigue during racing.
- g. CONCLUSION: the ban of Lasix in any group of racehorses will contribute to injury and death in racing. This regulation will cause the exact opposite of the intention of the regulation.

II. Restriction of therapeutic joint injections within 14 days of racing

- a. This regulation is accompanied by laboratory thresholds and "stacking" violations. This means that the presence of more than one corticosteroid in the blood or urine of a horse will constitute a violation.
- b. There is NO scientific evidence to support any laboratory threshold in blood or urine consistent with a 14 day withdrawal.
- c. Drug testing in horse racing is so sensitive that drugs picked up in the environment can be detected in the blood and urine.
- d. Violations have occurred with existing regulations when horses have been treated exactly as recommended in the regulations.
- e. New stacking violations are likely to result in similar problems, where horsemen and women are penalized despite adhering to all recommendations.
- f. This is the inevitable consequence of imposing regulations without appropriate scientific inquiry.
- g. Further, this restriction interferes with the practitioner's clinical judgement, placing a regulation over a veterinarian's judgement. (Compare to a Health Insurance Company or the Government making health care decisions of humans over the judgement of that person's personal physician)
- h. The purpose of the regulation is to prevent serious racing injuries, but there is no evidence that joint injections predispose to fractures. To the contrary, joint injections are often a crucial part of the diagnostic plan in a horse that is not lame, but not quite right. Limiting this procedure also limits the diagnostic plan, leaving more horses subject to lack of veterinary intervention.
- i. The basis for this proposal is a study, called the Whitton paper. This paper does NOT call for restrictions of joint injections. It actually states in the conclusion: "The aim of this study was not to determine whether the use of local corticosteroids was detrimental, as this was not possible from this study design."

III. Restriction of NSAIDs (such as aspirin, Aleve, etc) within 48 h of racing

- a. Similar to the corticosteroid stacking rules, this rule does not provide thresholds for stacking that are based on published scientific evidence.
- b. The study upon which this recommendation is based shows that cytokines are produced by the body of the horse beyond the current 24 hour withdrawal for NSAIDs.



- c. Cytokines are chemicals produced by the body in response to drugs, foods, stress, emotional states and many other factors.
- d. The fact that an NSAID has an effect on a specific cytokine has no bearing on whether an animal will become injured.
- e. The point of restricting NSAIDs is so that horses will not have injuries masked by drugs and then go on to make that injury worse because of racing.
- f. The identification of cytokines many hours after drug administration bears no relationship to masking pain. The effect of NSAIDs on pain is well controlled within the current 24 hour restriction.

Therapeutic medications are already highly restricted in race horses. The solution to racing injuries is multifactorial and a knee jerk reaction of further restricting therapeutic medications and replacing the medical judgement of the attending veterinarian with a regulation is not the way to solve the problem of fractures in racehorses. Rather, the limitation of therapeutic medications in racehorses also limits the interaction between the horses and their veterinary care, resulting in a very real likelihood of making the problem worse and not better

All points made in this statement are supported by the scientific literature, or other compiled facts, and are available upon request (859)983-0737.

Clara K Jeng Clara Fenger, DVM, PhD, DACVIM

Supported by the racetrack practitioners of Kentucky, including but not restricted to:

Nick Meitinnis, DVM Andrew Roberts, DVM Bradford Bentz, DVM, PhD, DACVIM

Jerry Johnson, DVM, DACVS James Prendergast, DVM

James Casey, DVM William Baker, DVM

Kate Hammer, DVM Arnaldo Monge, DVM

Robert Hunt, DVM, DACVS

Charles Hord, DVM

Phil Kapraun, DVM

Tyler Frazee, DVM

Rick Pelphrey, DVM

Rick Fischer, DVM

Chris Johnson, DVM, DACVS Richard Kester, DVM, MS

Joseph Morgan, DVM, DACVS

Mark Cheney, DVM James Slaughter, DVM Phil Tripp, DVM Ben Bealmer, DVM Victor Torres, DVM Eric Kates, DVM John Cummins, DVM Bradley Brown, DVM Frank D. Marcum, DVM Greg Fox, DVM John Garrity, DVM Camme Miles, DVM Scott Kendall, DVM Larry Caudill, DVM

John Reichert, DVM John Piehowicz, DVM

Foster Northrup, DVM



Sent: Monday, July 20, 2020 4:36 PM
To: Moore, Joe K < Joe.K.Moore@wv.gov>
Subject: [External] WV Racing Legislative

CAUTION: External email. Do not click links or open attachments unless you verify sender.

To Whom It May Concern,

I am writing to submit a public comment on the WV Racing Legislative Rule Amendment submitted June 18, 2020.

I am a Doctor of Veterinary Medicine practicing in private practice in the state of MD at Fair Hill Training Center, the 2016 President of American Association of Equine Practitioners (AAEP) and a member of the Mid Atlantic Racing Stakeholder group who authored the Mid Atlantic Strategic Plan to Reduce Equine Fatalities. I am writing in support of the WVA Legislative adoption of the following RCI rules by reference:

RCI Uniform Classification Guidelines for Foreign Substances, Version 14.1

RCI Endogenous, Dietary, or Environmental Substances Schedule, Version 4.1

RCI Controlled Therapeutic Medication Schedule, Version 4.2 (48 Hr. NSAIDS)

RCI Model Rule on joint injections (Section 49.16, and following and 49.17

RCI Model Rule on Bisphosphonates (Section 48.5.f. and following)

Additionally, I support adoption of the Mid Atlantic's continuing education rule for trainers and assistant trainers (Section 26.1.c.) for knowledge is progress and ongoing CE will encourage implementation of the Best Practices that the Mid Atlantic Strategic Plan has put in place over the past year.

As a private practitioner, uniformity of medication rules is of paramount importance to facilitate racing between states and to improve the integrity of racing that will impact the safety of our racehorses. Additionally the AAEP has supported both the Racing and Medication Testing Consortium (RMTC) and the Association or Racing Commissioners International (ARCI) with veterinary knowledge and experience on their scientific committees and endorse both entities as solid forward thinking rule making bodies that endeavor remain in sync with racing safety and welfare issues thus promoting ongoing value to "adoption by reference."

To summarize I am in support of this proposed legislation and believe that it will ensure WV racing remains in sync with other racing jurisdictions.

Sincerely,

Klinder

Kathleen M. Anderson, DVM kandersondvm@equinevetcare.com

Equine Veterinary Care, PC @ Fair Hill Training Center, MD 288 Training Center Dr. Elkton, MD 21921

Office: 410-392-6646 Cell: 443-309-0762



Mr. Joe Moore Executive Director West Virginia Racing Commission 900 Pennsylvania Avenue Suite 533 Charleston, WV 25302

July 20, 2020

Via email only

Re: In support of rule amendment filing for adoption of ARCI Model Rules

Dear Mr. Moore,

The Mid-Atlantic Strategic Plan to Reduce Equine Fatalities, a culmination of regional efforts that have been ongoing for almost a decade, was formally created in 2019 with the express purpose of improving the safety of Thoroughbred racing, protecting the welfare of the horses and riders, and promoting the integrity of the sport. With the consensus of a partnership that includes the regulatory agencies, racetracks and horsemen's groups in the Mid-Atlantic region, including West Virginia's stakeholders, we have been and continue to develop uniform Best Practices for the Thoroughbred industry that are the foundation of our mission.

The proposal by the West Virginia Racing Commission to adopt RCI Model Rules, in particular the RCI Controlled Therapeutic Medication Schedule, Version 4.2; the RCI Model Rule on joint injections; and the RCI Model Rule on penalties for Category C medication violations, including penalties related to the change in the Model Rule on NSAIDs, is in lockstep with the mission of the Mid-Atlantic Strategic Plan. Adoption of these Model Rules in West Virginia will also maintain uniformity in the region, as the rules have been adopted in full by every other state in the Mid-Atlantic: Delaware, Maryland, New Jersey, New York, Pennsylvania, and Virginia.

The Model Rule on NSAIDs increases the withdrawal time from 24 to 48 hours, a change vital to protection of the horses. A recent study linked the presence of the NSAID phenylbutazone in a horse's system to the risk of a fatal injury. The administration of NSAIDs 24 hours before a race also can hinder the ability of a regulatory veterinarian to properly assess a horse's fitness to race during the mandatory pre-race examination, which takes place as much as eight hours before post time of a horse's race. This amendment will protect the integrity of the pre-race examination, and ensure that soundness is not affected during the examination or the race itself.

Further, amending the penalties associated with Category C medication violations, including NSAIDs, will strengthen this initiative by providing ample deterrence to encourage adherence to the withdrawal guidelines.

The Model Rule on joint injections increases the withdrawal time for intra-articular joint injections from seven to 14 days. These treatments have a therapeutic value in the equine athlete, but sufficient time is needed for the trainer and the attending veterinarian to properly evaluate the horse's response to the therapy. The horse should not be exposed to the stress of competition until a full evaluation has been made. The extension of time between treatment and competition allows for that comprehensive appraisal.

Jurisdictions throughout the Mid Atlantic have adopted these Model Rules without significant issue in terms of burdensome penalties or the ability of racing offices to attract entries for their races. Horsemen have adjusted their treatment protocols to comply with the new rules. They have been advised to administer only one NSAID within one week of a race to avoid a "stacking" violation, wherein more than one NSAID is detected in a post-race testing sample, and that practice has been largely successful in eliminating "stacking" penalties. Although there has been some discussion about establishing secondary detection levels for multiple NSAIDs, this approach has been uniformly rejected in favor of the simple limitation of the use of only one NSAID in the seven days before a race that is the national rule.

The 2017 Economic Impact Study of the U.S. Horse Industry, conducted by the American Horse Council (AHC) Federation in conjunction with The Innovation Group, found that the horse racing industry generates more than 240,000 jobs nationwide and has a \$15.6 billion impact on the U.S. economy. It is an industry vital to the Mid-Atlantic region, but it will only be viable if the stakeholders show real commitment to equine safety and welfare. The proposed adoption of the RCI Model Rules by the West Virginia Racing Commission demonstrate the state's resolve to do all it can to protect Thoroughbred racing and the equine and human athletes who are at its core. The potential for positive impact on safety and integrity is momentous.

Thank you for the opportunity to voice support for these progressive and beneficial rule changes.

Sincerely,

Andy Belfiore

Project Manager

Mid-Atlantic Strategic Plan to Reduce Equine Fatalities

andy@tharacing.com

(732) 673-2855



Mr. Joe Moore Executive Director West Virginia Racing Commission 900 Pennsylvania Avenue Suite 533 Charleston, WV 25302

July 20, 2020

Via email only

Re: In support of rule amendment filing for adoption of the Mid-Atlantic Model Rule on continuing education requirements for trainers and assistant trainers

Dear Mr. Moore,

The Mid-Atlantic Strategic Plan to Reduce Equine Fatalities, a culmination of regional efforts that have been ongoing for almost a decade, was formally created in 2019 with the express purpose of improving the safety of Thoroughbred racing, protecting the welfare of the horses and riders, and promoting the integrity of the sport. With the consensus of a partnership that includes the regulatory agencies, racetracks and horsemen's groups in the Mid-Atlantic region, including West Virginia's stakeholders, we have been and continue to develop uniform Best Practices for the Thoroughbred industry that are the foundation of our mission.

Earlier this year, the members of the Strategic Plan formed a Committee comprised of regulators and representatives of horsemen's groups, including West Virginia, to craft a model rule for continuing education requirements for Thoroughbred horse trainers and assistant trainers. The purpose of this initiative is to ensure trainers and assistant trainers maintain the skill level necessary to promote equine health and welfare, and that they stay current with the latest in medical research and technology relevant to the Thoroughbred racehorse.

The landscape of the Thoroughbred industry is ever-changing. Every year, there are new technologies for monitoring horse health, new treatments for addressing health and soundness issues, and new studies that offer insight and information of significance to the men and women licensed to provide care to the horses. Trainers and assistant trainers have a responsibility to avail themselves of educational opportunities, to improve their skills and to expand their knowledge so that the training of the horses is focused first and foremost on equine health and welfare, and the care is the best it can be.

In addition, continuing education can greatly benefit the horsemen by offering much-needed information on topics including business management, wage and hour law, and immigration.

New York led the region by adopting continuing education requirements for trainers and assistant trainers that went into effect in 2017. The Mid-Atlantic has committed to adoption of the CE model rule beginning Jan. 1, 2021. Horsemen will begin earning continuing education credits in 2021, and fulfillment of CE requirements will be a condition of licensure for 2022.

There are already a wide variety of free, on-line courses available, a resource adequate to satisfy the annual four-hour requirement for several years. The Welfare and Safety of the Racehorse Summit partnered with the North American Racing Academy (NARA) to create a <u>free online educational program</u> available to all jurisdictions, with 11 modules currently available on their website. The <u>New York State</u> Gaming Commission has five additional modules available on line.

In addition, horsemen's groups have committed to working with the Strategic Plan Committee to provide free seminars, in person and via webinars, that easily will allow the trainers and assistant trainers to meet the requirements each year. The New York Thoroughbred Horsemen's Association has provided such seminars since the New York regulation went into effect.

Knowledge is a powerful tool. Education will play a vital role in improving the safety of equine athletes and, by extension, the jockeys and exercise riders. The partnership behind the Mid-Atlantic Strategic Plan to Reduce Equine Fatalities is in full support of the adoption of the Mid-Atlantic Model Rule on continuing education requirements for trainers and assistant trainers and strongly urge its swift adoption in West Virginia.

We appreciate the opportunity to comment on this important proposal.

Sincerely,

Andy Belfiore Project Manager

Mid-Atlantic Strategic Plan to Reduce Equine Fatalities

andy@tharacing.com

(732) 673-2855



Mr. Joe Moore Executive Director West Virginia Racing Commission 900 Pennsylvania Avenue Suite 533 Charleston, WV 25302

July 20, 2020

Via email only

Re: To request minor amendments to §178-1-48. Veterinary Practices, to align with the approved Best Practices for the use of extracorporeal shock wave therapy or radial pulse wave therapy

Dear Mr. Moore,

The Mid-Atlantic Strategic Plan to Reduce Equine Fatalities, a culmination of regional efforts that have been ongoing for almost a decade, was formally created in 2019 with the express purpose of improving the safety of Thoroughbred racing, protecting the welfare of the horses and riders, and promoting the integrity of the sport. With the consensus of a partnership that includes the regulatory agencies, racetracks and horsemen's groups in the Mid-Atlantic region, including West Virginia's stakeholders, we have been and continue to develop uniform Best Practices for the Thoroughbred industry that are the foundation of our mission.

On behalf of the Strategic Plan, I would like to take the opportunity during the public comment period to request minor amendments of §178-1-48. Veterinary Practices, so that the rule will align with the Best Practice for the use of extracorporeal shock wave therapy approved by the stakeholders in the Mid Atlantic earlier this year. The requested amendments highlighted below.

48.4.d. The use of extracorporeal shock wave therapy or radial pulse wave therapy shall not be permitted unless the following conditions are met:

48.4.d.1. Any treated horse shall not be permitted to race or train for a minimum of ten (10) days following treatment, with the count to start on the day of treatment;

48.4.d.2. The use of extracorporeal shock wave therapy or radial pulse wave therapy machines shall be limited to veterinarians holding occupational permits issued by the Commission and using registered and approved machines at a previously-disclosed location;

48.4.d.3. Any extracorporeal shock wave therapy or radial pulse wave therapy machines on the association grounds must be registered with and approved by the Commission or its designee before use;

48.4.d.4. All extracorporeal shock wave therapy or radial pulse wave therapy treatments must be reported to a Racing Commission veterinarian by the treating veterinarian within one (1) day on a prescribed form.

The horse shall be added to a list of ineligible horses. This list shall be kept in the association's racing secretary's office and shall be accessible to jockeys and/or their agents during normal business hours; and

48.4.d.5. Any person participating in the use of extracorporeal shock wave therapy and/or in the possession of extracorporeal shock wave therapy machines in violation of this rule shall be considered to have committed a prohibited practice and is subject to a Class A penalty as set forth in table 178-1E at the end of this rule.

We are working with the stakeholders in the Mid Atlantic to create a uniform working environment for the horsemen in the region. The Best Practice on Shockwave Therapy was reviewed and approved by the Equine Medical Directors in the Mid Atlantic, including Dr. Francis Daniel, who serves in that capacity for the West Virginia Racing Commission. Based on RCI Model Rule, the Best Practice is attached.

Thank you for your consideration of this request.

Sincerely,

Andy Belfiore

Project Manager

Mid-Atlantic Strategic Plan to Reduce Equine Fatalities

andy@tharacing.com

(732) 673-2855



BEST PRACTICE SHOCK WAVE THERAPY

PURPOSE: To ensure the safe and responsible use of Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy.

GOAL: To adopt uniform standards that follow the ARCI Model Rule for the treatment of horses with Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy.

The use of Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy will only be permitted under the following conditions:

- 1) All Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy equipment must be registered with the state's racing regulatory agency.
- 2) The location of the equipment is subject to the inspection and approval of the state's racing regulatory agency.
- 3) Only veterinarians duly licensed by the state's racing regulatory agency will be permitted to perform the treatment.
- 4) The regulatory veterinarian will be notified in writing, on the prescribed form, within 24 hours of such treatment. The treating veterinarian is responsible for submitting the prescribed form.
- 5) The horse will not be allowed to race or breeze for a minimum of 10 days following treatment, with the day of the treatment to be considered the first day of the count.
- 6) The horse will be placed on the Vet's List or Shock Wave List during the 10-day stand down period.
- 7) The owner, trainer, treating veterinarian and other persons are subject to appropriate disciplinary action upon violation of these rules.