

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #2

Do Not Mark In this Box

APR 23 11 42 AM '99

OFFICE OF THE SECRETARY OF STATE
WEST VIRGINIA

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Racing Commission TITLE NUMBER: 178

RULE TYPE: Legislative Rule; CITE AUTHORITY §§ 178-1-1 through 73

AMENDMENT TO AN EXISTING RULE: YES X NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series 1

TITLE OF RULE BEING AMENDED: Thoroughbred Racing

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:

TITLE OF RULE BEING PROPOSED:

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON June 1, 1999 AT 12:00 noon. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Racing Commission
106 Dee Drive
Charleston, WV 25311

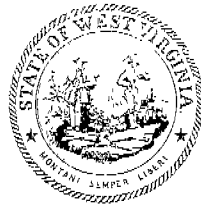
THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.


Robin C. Capehart, Cabinet Secretary

4/20/99
Date

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

\$17.90



COMMISSIONERS:

JAMES T. McCLURE
CHAIRMAN

ROBERT J. BURKE
MEMBER

JOSEPH B. KNOTTS
MEMBER

STATE OF WEST VIRGINIA
DEPARTMENT OF TAX AND REVENUE
WEST VIRGINIA RACING COMMISSION

CECIL H. UNDERWOOD
GOVERNOR

MAILING ADDRESS:

106 DEE DRIVE
CHARLESTON, WV 25311

PHONE (304) 558-2150
FAX (304) 558-6319

LOIS J. GRAHAM
EXECUTIVE SECRETARY

April 21, 1999

STATEMENT OF PURPOSE

An extensive review related to bringing into conformity our current rules in line with the uniform Rules of Racing with the Uniform Rules of Racing of the Association of Racing Commissioners International. Ours would then reflect current trends, court rulings, as well as the result of the collective wisdom of racing officials from West Virginia and other states.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Thoroughbred

Type of Rule: **Legislative** **Interpretive** **Procedural**

Agency Racing Commission

Address 106. Dee Drive

Charleston, West Virginia 25311

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	\$	\$	\$	\$	\$
PERSONAL SERVICES	0	0	0	0	0
CURRENT EXPENSE	0	0	0	0	0
REPAIRS & ALTERNATIONS	0	0	0	0	0
EQUIPMENT	0	0	0	0	0
OTHER	0	0	0	0	0

2. Explanation of above estimates:

There should be no fiscal effect emanating from this rule.

3. Objectives of these rules:

Major update on the Thoroughbred rules, using the National Association of Racing Model Rules as a guide.

Rule Title: Thoroughbred

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

None.

C. Economic Impact on Citizens/Public at Large.

None.

Date: April 23, 1999

Signature of Agency Head or Authorized Representative

Lois J. Deane

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule; Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: 4/23/1999

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) Lois J. Graham
106 Dee Drive
Charleston, West Virginia 25311
(304) 558-2150

LEGISLATIVE RULE TITLE: Thoroughbred Rules of Racing

1. Authorizing statute(s) citation 19-23-6

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:

4/23/1999

b. What other notice, including advertising, did you give of the hearing?

Sent notices to PNGI Charles Town Races, Mountaineer Racetrack
Charles Town H.B.P.A., Mountaineer H.B.P.A., Jockey Guild,
Track Managers and Board of Stewards

c. Date of Public Hearing(s) or Public Comment Period ended:

June 1, 1999 12:00 noon

- d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached _____ No comments received _____

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact).

- f. Name, title, address and phone/fax/e-mail numbers of agency person(s) to receive all written correspondence regarding this rule: (Please type)

Lois J. Graham

Executive Secretary

106 Dee Drive

Charleston, West Virginia 25311

304-558-2150, fax 304-558-6319

e-mail: grahal@mail.wvnet.edu

- g. IF DIFFERENT FROM ITEM 'f', please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a

hearing for the taking of evidence and a general description of the issues to be decided.

June 1, 1999 Will take written comments only

b. Date of hearing or comment period:

June 1, 1999

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

April 23, 1999

d. Attach findings and determinations and reasons:

Attached

TITLE 178
LEGISLATIVE RULE
RACING COMMISSION

SERIES ONE
THOROUGHBRED RACING

§178-1-1. General.

1.1. Scope. -- This rule regulates the conduct of thoroughbred racing in this state whether live or by simulcast, the conducting of pari-mutuel wagering at horse race tracks, and the breeding of thoroughbreds for racing.

1.2. Authority. -- W. Va. Code §19-23-6.

1.3. Filing Date. --

1.4. Effective Date. --

§178-1-2. Definitions.

As used in this rule and unless the context clearly requires a different meaning, the following terms shall have the meaning ascribed herein, and shall apply in the singular and in the plural.

2.1. "Accredited thoroughbred horse" means a thoroughbred horse that is foaled in West Virginia; or

2.1.1. sired by an accredited West Virginia sire; or

2.1.2. as a yearling, finished twelve (12) consecutive months of verifiable residence in the state, except for a thirty (30) day grace period for the horse to be shipped to and from horse sales outside of this state where the horse is officially entered in the sales catalogue of a recognized thoroughbred sales company.

2.2. "Accredited West Virginia Sire" means a sire that is permanently domiciled in West Virginia, stands a full season in West Virginia and is registered with West Virginia thoroughbred breeders association.

2.3. "Act" means the West Virginia Code 19-23-1 et seq. which permits pari-mutuel horse racing and wagering in this jurisdiction.

2.4. "Age" means the age of a horse which is reckoned as beginning on the first day of January in the year in which it is foaled.

2.5. "Allowance race" means an overnight race for which eligibility and weight to be carried is determined according to specified conditions which include age, sex, earnings and number of wins.

2.6. "Appeal" means a request for the Racing Commission or its designee to investigate, consider and review any decisions or rulings of stewards of a meeting.

2.7. "Applicant" means any racing association making application for a license or any person making application for a permit, or any person making application for a construction permit, as the case may be.

2.8. "Arrears" include all moneys due for entrance fees (including jockeys' fees), fines, subscriptions for stakes, purchase money in claiming or selling races and also any default in money incident to the rules.

2.9. "Association" or "racing association" means any individual, partnership, firm, association, corporation or other entity or organization of whatever character or description licensed by the Racing Commission to conduct a meeting where horse racing is permitted for any purse involving pari-mutuel wagering.

2.10. "Association grounds" means all real property utilized by the association in the conduct of its race meeting, including the racetrack, grandstand, concession stands, offices, barns, stable area, employee housing facilities and parking lots and any other areas under the jurisdiction of the Racing Commission.

2.11. "An authorized agent" means a person appointed by an owner to act as his or her representative in a notarized document signed by the owner and filed with the Racing Commission.

2.12. "Betting interest" means one or more horses in a race involving pari-mutuel wagering which is identified by a single program number for wagering purposes.

2.13. "Bleeder" means a horse which has demonstrated external evidence of exercise induced pulmonary hemorrhage (epistaxis, or bleeding from one or both nostrils) and/or the existence of

hemorrhage into the trachea post exercise as observed upon endoscopic examination.

2.14. "Bleeder lists" means a tabulation of all horses designated as bleeders to be maintained by the Racing Commission.

2.15. "Bookmaking" means a form of gambling that is not authorized by law in which chances are sold to individuals who may win a part or all of the pool depending on the outcome of the event for which the pool is made.

2.16. "Breakage" means the remainder after deducting the payout from the net pool.

2.17. "Bred" means the place of a horse's birth.

2.18. "Breeder" means the owner of the horse's dam at the time of foaling.

2.19. "Breeders of an accredited West Virginia horse" means the owner of the foal at the time it was born in West Virginia.

2.20. "Chairman of the racing commission" means the chairman of the Racing Commission, or his or her designee.

2.21. "Code" means the Code of West Virginia, one thousand nine-hundred thirty-one, as amended.

2.22. "Claiming race" means a race in which, according to the conditions, any of the participating horses involved may be claimed.

2.23. "Commission" means the West Virginia Racing Commission.

2.24. "Commissioner" means a member of the West Virginia Racing Commission.

2.25. "Complaint" means all signed complaints made to the Racing Commission or any of its representatives in writing.

2.26. "Conditions" are qualifications which determine a horse's eligibility to participate in a race.

2.27. "Construction permit holders" means any person holding a construction permit required by the Racing Commission.

2.28. "Course" means the racing strip over which horses race.

2.29. "Day" means a 24-hour period ending at midnight.

2.29.1. "Dark day" means a day during a racing meeting in which neither live nor simulcast pari-mutuel wagering is conducted.

2.29.2. "Race day" means a calendar day during a race meeting in which pari-mutuel wagering is conducted on live racing.

2.29.3. "Simulcast race day" means a day during a race meeting in which pari-mutuel wagering is conducted on races being conducted at a location other than the racetrack where the wager is placed.

2.30. "Dead heat" means the finish of a race in which the noses of two or more horses reach the finish line at the same time.

2.31. "Draw" means the process of selecting thoroughbreds and determining by lot their post or starting gate positions for a race in a manner to ensure compliance with the conditions of the rules of racing.

2.32. "Entry" means:

2.32.1. a horse eligible for and entered in a race; or

2.32.2. two or more horses, entered in the same race, which have common ties of ownership, lease or training.

2.33. "Executive secretary" means the racing secretary of the Racing Commission.

2.34. "Flat Race" means races in which horses mounted by jockeys run over a course on which no jumps or other obstacles are placed.

2.35. "Fund" means the West Virginia thoroughbred development fund established under the provisions of West Virginia Code 19-23-13b.

2.36. A "Handicap" is a race in which the weights to be carried by the horses are adjusted by the handicapper, for the purpose of equalizing their chances of winning.

2.37. "Handle" means the total amount of all pari-mutuel wagering sales less refunds and cancellations.

2.38. "Harness racing" means horse racing in which the horses participating therein are harnessed to a sulky, carriage or other

vehicle and do not include any form of horse racing in which the horses are mounted by jockeys.

2.39. "Horse" means an equine registered to race including and designated as a mare, filly, stallion, colt, ridgeling or gelding.

2.40. "Horse racing" means any type of equine racing, including, but not limited to thoroughbred racing and harness racing, involving pari-mutuel wagering.

2.41. "Horse race meeting" means the whole period of time ending on December 31st for which a license is required by the Racing Commission

2.42. "Inquiry" means an investigation by the stewards of potential interference in a race prior to declaring the result of that contest official.

2.43. "Jockey" means a professional rider issued an occupational permit to ride in races.

2.44. "Legitimate breakage" means the percentage left over in the division of a pool.

2.45. "License" means an authorization by the Racing Commission to an association to conduct horse racing with pari-mutuel wagering at a specified location.

2.46. "Licensee" means any racing association holding a license required by the provision of West Virginia Code 19-23 and issued under this rule.

2.47. "Maiden" means a horse which has never, in any country, won a race on the flat, other than in a match or private sweepstakes, a maiden which has been disqualified after having finished first. Conditions referring to "Maidens" shall mean maiden at the time of starting.

2.48. "Maiden race" means a contest restricted to nonwinners.

2.49. "Matches" means a private sweepstake made between two (2) horses. If either horse to a match dies or a dead heat is run, the match is off.

2.50. "Meet" means the specified periods and dates within a racing meeting, during which an association is authorized by the

Racing Commission to conduct racing and/or pari-mutuel wagering.

2.51. "Meeting" means the total specified periods and dates each year during which an association is authorized by the Racing Commission to conduct racing and/or pari-mutuel wagering.

2.52. "Month" means a calendar month.

2.53. "No contest" means a race canceled for any reason by the stewards.

2.54. "Nominator" means the person in whose name the horse is entered for a race.

2.55. "Objection" means:

2.55.1. a written complaint made to the stewards concerning a horse entered in a race and filed not later than one hour before the scheduled post time of the first race on the day in which the questioned horse is entered; or

2.55.2. a verbal claim of foul in a race lodged with the stewards or their designee by the horse's jockey, trainer, owner or the owner's authorized agent before the race is declared official by the stewards.

2.56. "Official order of finish" means the order of finish of the horses in a contest as declared official by the stewards.

2.57. "Official starter" means the official responsible for dispatching the horses for a race.

2.58. "Official time" means the elapse time from the moment the first horse crosses the starting point until the first horse crosses the finish line.

2.59. "Off time" means the moment at which, on the signal of the official starter, the doors of the starting gate are opened, officially dispatching the horses in each race.

2.60. "Outs" or "Outstanding tickets" means winning or a refundable pari-mutuel ticket which was not cashed during the performance for which it was issued.

2.61. "Overnight" means a race or handicap for which the entries or acceptances are to be made, or if a handicap, acceptances are to be made, seventy-two (72) hours or less (exclusive of Sunday)

before the time set for the first race on the day on which the race is to be run.

2.62. "Owner" means a person who holds any title, right or interest, whole or partial in a horse, including the lessee and lessor of a horse. An interest in the winnings only of a horse shall not constitute ownership.

2.63. "Owner of an accredited West Virginia horse" means the owner at the time the horse earned designated purses to qualify for a restricted purse supplements.

2.64. "Owner of an accredited West Virginia sire" means the owner of record at the time the offspring is conceived.

2.65. "Paddock" means an enclosure in which horses scheduled to compete in a contest are saddled prior to racing.

2.66. "Pari-mutuel" means a mutuel or collective pool that can be divided among those who have contributed their wagers to one central pool. The odds of these wagers are to be reckoned in accordance with the collective amounts wagered upon each horse running in a horse race relative to the amount wagered on each horse in each pool with the total to be divided among the first three contestants on the basis of the number of wagers.

2.67. "Pari-mutuel clerk" means any employee of a licensed racing association who is responsible for the collection of wagers, the distribution of moneys for winning pari-mutuel tickets, verification of the validity of pari-mutuel tickets and accounting for pari-mutuel funds.

2.68. "Patron" means a member of the public present on the grounds of a pari-mutuel association during a meeting for the purpose of wagering or to observe racing.

2.69. "Performance" means a schedule of races run consecutively as one program.

2.70. "Permit holder" means any person holding a permit required by the Racing Commission.

2.71. "Person" means any individual, partnership, firm, association, corporation or other entity or organization of whatever character or description.

2.72. "Pool" means a combination of interests in a joint wagering enterprise or a stake in the enterprise.

2.73. "Post position" means the assigned by lot position from which a horse will leave the starting gate.

2.74. "Post time" means the time set for the arrival at the starting point of the horses in a race. It must be shown at a reasonable time before the race on a clock device provided specifically for this purpose, and must be prominently displayed and clearly readable from the grandstand.

2.75. "Private sweepstake" means one to which no money or other prize is added and which has not at any time been advertised either by publication, or by circular, or entry blank, or in any other way.

2.76. "Produce race" means one to be run for by the produce of horses named or described at the time of entry.

2.77. "Program" means the published listing of all contests and contestants for a specific performance.

2.78. "Prospective licensees" means any association which has applied or intends to apply to become a "licensee" as defined under the provisions of West Virginia Code 19-23-1 et seq.

2.79. "Purse" means the total cash amount for which a race is contested.

2.80. "Purse race" means a race for money or other prize to which the owners of the horses engaged do not contribute.

2.81. "Race" means a stake, a purse, a sweepstake, a private sweepstakes, a match or overnight event, but does not include a steeplechase or hurdle race.

2.82. "Racing association" means any individual, partnership, firm, association, corporation, or other entity or organization of whatever character or description licensed in accordance with West Virginia Code 19-23-1 et seq. to hold a horse race meeting.

2.83. "Racing commission" or "commission" means the West Virginia Racing Commission, or its designee.

2.84. "Raisers of an accredited West Virginia horse" means the owner of the yearling at the time it finished twelve (12)

consecutive months of verifiable residence in the state. During the period, the raiser will be granted one (1) month of grace for his or her horse to be shipped to and from thoroughbred sales where the horse is officially entered in the sales catalogue of a recognized thoroughbred sales company. Prior to the horse being shipped out of the state for sales, the raiser must notify the Racing Commission of his or her intentions.

2.85. "Random testing" means a strategy for testing for alcohol or controlled substances not based on a reasonable belief that an individual has drugs and/or alcohol in his or her system that assures that all affected individuals have an equal probability of being selected for testing.

2.86. "Reasonable cause/reasonable suspicion testing" means a strategy for testing for alcohol or controlled substances based on an official's having good reason to believe that a permit holder has alcohol or controlled substance in his or her system.

2.87. "Recognized meeting" means:

2.87.1. a meeting held under license of the Racing Commission;

2.87.2. a meeting held in this or any other country under the sanction of a Commission or turf authority whose jurisdiction over racing of any nature is recognized by the Racing Commission, and which gives effect to sentences imposed by the Racing Commission upon those guilty of improper turf practices.

2.88. "Restricted area" means an enclosed portion of the association's ground where access is limited to an occupational permit holder.

2.89. "Result" means that part of the official order of finish used to determine the pari-mutuel payout of pools for each individual contest.

2.90. "Ruled-off" means the act of disallowing a person to enter or remain upon the premises of any or all licensed race tracks and/or simulcast facilities.

2.91. "Scratch" means the act of withdrawing an entered horse from a contest after the closing of entries.

2.92. "Scratch time" means the deadline for withdrawal of entries from a scheduled performance.

2.93. "Secretary" means the Secretary of the West Virginia Department of Tax and Revenue, or his or her designee.

2.94. "Simulcast" means the transmission and/or reception for pari-mutuel wagering purposes of a live horse racing contest conducted at a licensed racetrack other than where the pari-mutuel wager is placed.

2.95. "Stable name" means a name used other than the actual legal name of an owner or lessee of a horse. Stable names must be registered with the Racing Commission.

2.96. "Stakes race" means a contest in which nomination, entry and/or starting fees contribute to the purse. No overnight race shall be considered a stake's race.

2.97. "Starter" means a horse in a stall of a starting gate at the time the stall doors of the starting gate open in front of the horse when the official starter dispatches the field.

2.98. "Stewards" means the person or persons designated to represent the Racing Commission whose duty it is to supervise any horse race meeting as may be provided by reasonable rules of the Racing Commission. This rule will specify the number of stewards to be appointed, the method and manner of their appointment and their powers, authority and duties.

2.99. "Sweepstake" means a race in which the entrance fee, subscription and/or other contribution of three (3) or more owners are distributed according to the conditions of the race. The race is still a sweepstake when money or other prize is added, but no overnight race, whatever its conditions, shall be considered to be a sweepstake.

2.100. "Thoroughbred race or thoroughbred racing" means that form of horse racing in which each horse participating in that race is a thoroughbred (i.e., meeting the requirements of and registered with "The Jockey Club") and is mounted by a jockey.

2.101. "To the dime" means that wagers will be figured and paid to the dime.

2.102. "Touting" means soliciting or providing unauthorized wagering tips on horses for a profit in races under the jurisdiction of the Racing Commission.

Touting is not authorized or permitted with the exception that

this will not apply to authorized tip sheets specified in the rule.

2.103. "Walkover" means a race in which only one (1) horse starts or in which all the starters are owned by the same interest.

2.104. "Week" means a calendar week.

2.105. "Weigh in" means a presentation of a jockey to the clerk of scales for weighing after a race.

2.106. "Weigh out" means the presentation of a jockey to the clerk of scales for weighing prior to a race.

2.107. "Weight for Age" means a race in which a fixed scale is used to assign the weight to be carried by individual horses according to age, sex, distance of the race, and season of the year without penalties or allowances.

2.108. "Winner" means the horse whose nose reaches the finish line first or is placed first through disqualification by the stewards.

2.109. "Year" means a calendar year.

§178-1-3. Calculation of Time.

3.1. When the last day for complying with this rule falls on a Sunday, compliance may be effected on the following Monday, unless a race to which the act relates is appointed for that day, in which case it must be done on the previous Saturday.

§178-1-4. Administrative.

4.1. This rule and any amendments or additions thereto apply to all individuals, firms, associations, partnerships, or corporations holding, conducting, participating in or observing a meeting, licensed by the Racing Commission.

4.2. In reading this rule, unless the text otherwise requires, it will be understood, without constant reference thereto, that they apply only in the State of West Virginia.

4.3. The Racing Commission may rescind or modify any penalty or decision for infraction of this rule imposed or made by the racing stewards. The laws of the State of West Virginia and this rule

promulgated by the Racing Commission supersede the conditions of a race or the regulations of a racing association.

4.4. Members of the Racing Commission and its designated representatives shall have the right of full and complete entry to any and all parts of the grounds of the association licensed to conduct horse racing.

4.5. The Racing Commission or the stewards of any licensed meeting shall have the right to permit and direct any individual authorized to enter in or upon the stables, rooms, trailers, vehicles or other places within the grounds of the association at which a licensed race meeting is held. The Racing Commission or the stewards shall also have the right to inspect and examine the person of a trainer, jockey, apprentice, stable foreman, exercise rider, authorized agent, veterinarian or any other person who has been granted an occupational permit by the Racing Commission. And each occupational permit holder in accepting his or her occupational permit does hereby consent thereto.

4.6. Every person participating in and every patron of a licensed race meeting shall abide by the laws and the rules and accept the stewards' decisions on any and all questions, subject to the right of appeal to the Racing Commission.

4.7. No person shall in any manner, or at any time, disturb the peace or make himself or herself obnoxious on the grounds of an association.

4.8. Any person ejected by the stewards or the association from the grounds of an association shall be denied admission to the grounds until permission for his or her reentry has been obtained from the association and the Racing Commission however, all occupational permit holders ejected will have the right of appeal to the Racing Commission.

4.9. The Racing Commission steward will sound the bell closing the pari-mutuel ticket issuing machines when the starter dispatches the field.

4.10. The holder of a claim whether it is a mortgage, a bill of sale or lien of any kind against a horse shall be required to file a notarized copy with the horsemen's bookkeeper before the time the horse starts. Failure to file the claim shall result in forfeit of his or her rights in the winnings of the horse prior to the time his or her claim is properly filed.

4.11. No person who is the holder of a racing license, a director, officer, or any employee of a corporation, association, trust or partnership having or holding a license who has a substantial financial interest in the corporations, association, trust or partnership, shall race or permit, or cause to be raced, any horse in which he or she has an interest, either direct or indirect, at any meeting where racing is conducted under the license. A substantial interest is hereby defined as ownership or interest, direct or indirect, of twenty percent (20%) or more in the corporation, association, trust or partnership.

§178-1-5. Financial Responsibilities.

5.1. Any official, owner, trainer or any person licensed or holding an occupational permit issued by the Racing Commission who obtains food, feed, shelter, drugs, transportation, services for horses, veterinary services or supplies for himself or herself or others, whether they hold an occupational permit or not, and fails to pay the person or persons from whom services or supplies are obtained shall be guilty of conduct detrimental to the best interests of racing. This conduct may result in suspension at the discretion of the stewards provided there has been a court judgement issued as to the amount of debt. Neither the association nor the Racing Commission will be obliged to collect debts from horsemen or other personnel holding an occupational permit issued by the Racing Commission.

5.2. Checks. No licensee or occupational permit holder will write, issue, make or present any check in payment for any occupational permit fee, fine, nomination or entry fee or other fees, or for any service or supplies when the licensee or occupational permit holder knows or should reasonably know that the check will be refused for payment by the bank upon which it is written, or that the account upon which the check is written does not contain sufficient funds for payment of the check, or that the check is written on a closed account or a nonexistent account. The fact that a check is returned to the payee by the bank as refused is a ground for suspension pending satisfactory redemption of the returned check.

§178-1-6. Minors.

6.1. The term "minor" is determined by and in accordance with the laws of the State of West Virginia.

6.2. No minor shall be sold a pari-mutuel ticket nor be

permitted to cash a pari-mutuel ticket at any licensed racetrack. Nor shall a minor be employed in any manner about the racetrack, except in the capacity of a jockey, jockey apprentice, exercise riders, groom, or employed in any other capacity as the Racing Commission may approve.

6.3. No occupational permit holder may have in their employment, in any capacity, any employee less than sixteen (16) years of age.

6.4. It shall be the responsibility of the racing association conducting a racing meet under a license issued by the Racing Commission to assure that all children under the age of sixteen (16) years are properly supervised by an adult when admitted to the association grounds. If this becomes a repeated problem, the licensed racing association may be fined two hundred fifty dollars (\$250) per occurrence. No minor under the age of sixteen (16) years may be admitted in a restricted area without the written permission of the stewards, except in case of an emergency. Failure of any licensee or occupational permit holder to properly supervise any minor admitted with the licensee or occupational permit holder to a restricted area may be fined not less than two hundred fifty dollars (\$250) and/or suspended.

§178-1-7. Telephone, Telegraph, Radio and Television.

7.1. Each association shall furnish a list to the Racing Commission showing the location of all radio and television equipment located within the association grounds, as well as a schematic diagram of all telephone, teletype and telegraph wires to and within the grounds to the Racing Commission.

7.2. An approved telephone or intercommunication system shall be provided by the association to maintain contact between the stewards and other designated stations.

§178-1-8. Associations.

8.1. Application to the Racing Commission for a license to conduct a race meeting must be filed yearly with the Racing Commission, signed by an executive officer of the association, at a time and place designated by the Racing Commission. The application shall be on the forms prescribed by the Racing Commission.

8.1.1. All applicants for licenses issued by the Racing

Commission and all applicants seeking renewal of a license must furnish their respective fingerprints for examination by the West Virginia Criminal Investigation Division and the Federal Bureau of Investigation. The fingerprints shall be furnished by all persons required to be named in the application and shall be accompanied by a signed authorization for the release of information by the Criminal Investigation Division and Federal Bureau of Investigation.

8.2. Each association shall observe and enforce the rules of racing and orders of the Racing Commission. The license is granted on the condition that the association, its officials, its employees and its concessionaires will respect any and all decisions and orders of the Racing Commission or its designee.

8.3. The jurisdiction of the Racing Commission over matters related to subjects covered by law or the rules of the Racing Commission is continuous throughout the year.

8.4. Each licensee shall file audited financial statements on or before the 15th of April of each year unless otherwise authorized by the Racing Commission covering all income and disbursements relating directly and indirectly to horse racing activities in the state, including, but not limited to, the following: Concessions, programs, parking, pari-mutuel wagering, and breakage.

8.5. All associations granted a license from the Racing Commission shall, at least thirty (30) days before each meet, submit the names of the officers and a complete list of administrative personnel, showing addresses, duties and compensations. At least two (2) weeks after the start of each meet, the association shall submit a complete list of all other employees, with addresses, duties and compensations. All additions or changes in the above personnel must be promptly reported to the Racing Commission for approval. An association failing to furnish the required information may be fined two hundred fifty dollars (\$250) for each day it fails to provide the information.

8.6. The president or general manager of the licensed racetrack conducting racing in West Virginia shall annually provide a list of all stockholders annually to the Racing Commission.

8.6.1. The sale of the assets of an association requires the buyer to apply for a racing license from the Racing Commission.

8.7. Thirty (30) days before conducting a meet, each association shall, submit to the Racing Commission the conditions

for all races it proposes to hold, together with the stake, purse or reward, all of which shall be subject to the approval of the Racing Commission. All proposed purses shall be exclusive of any entrance or starting fees that may be charged.

8.8. The minimum number of races per day at all race tracks under supervision of the Racing Commission shall be eight (8), the maximum number of races per day shall be ten (10), unless otherwise authorized by the Racing Commission.

8.9. Racing associations shall furnish and maintain at least one (1) a human ambulance staffed with certified paramedics or emergency medical technicians at any time the racetrack is open for live racing or exercising. If the ambulance is being used to transport an individual, the association may not conduct a race until the ambulance is replaced, and ready for immediate duty, to be placed at an entrance to the racing strip, so that no time may be lost in answering calls.

8.10. If approved by the Racing Commission or the stewards, an ambulance may follow the mounted horses at a safe distance during the running of the race.

8.11. The ambulance must be parked at an entrance to the racing strip except when the ambulance is being used to transport an individual or when it is following the mounted horses during the running of a race.

8.12. The racing association shall furnish at least one (1) horse ambulance each day that its track is open for racing or exercising horses. The horse ambulance must be equipped and ready for immediate duty and be placed at an entrance to the racing strip in order that no time may be lost in answering calls.

8.13. Each racing association shall equip and maintain at its racetrack at least one (1) temporary hospital provided with adequate beds and equipped with first aid appliances and material as approved by the Racing Commission. Each association shall meet minimum staffing requirements of emergency service personnel during all racing hours and employ an emergency medical technician and an individual trained in cardiopulmonary resuscitation. Additionally, each association shall employ a paramedic and a registered nurse during all racing hours.

8.14. Each racing association shall police its grounds at all times in a manner to prevent the admission of persons in and around

the stables unless these persons hold occupational permits issued by the Racing Commission.

8.15. An association shall ensure that the public areas of the association grounds are designed and maintained for the safety of the patrons and occupational permit holders and are accessible to persons with disabilities as required by state and federal law.

8.16. An association shall provide and maintain adequate rest room facilities for the patrons and occupational permit holders.

8.17. An association shall provide a supply of free drinking water.

8.18. An association shall maintain all comfort facilities on association grounds and ensure the safety and cleanliness of the comfort facilities at all times.

8.19. Each racing association will provide and maintain one (1) unit of adequate starting gates on every race day of its meeting as well as an additional reserve unit of starting gates on every race day. Each association shall use every reasonable endeavor to have in attendance whenever the gates are in use, one or more individuals who are skilled and qualified to maintain the gates in good working order, and be available for periodical inspections thereof as may be required by the Racing Commission.

8.20. Each racing association shall exclude from the paddock, in the interest of public safety, all persons who have no immediate business with the horses contained therein.

8.21. Each racing association with pari-mutuel privileges shall, at least thirty (30) days before the opening date of each meeting, submit to the Racing Commission the proposed total regular purse distribution, exclusive of stake races, and in addition the stake, purse or reward for all other races it proposes to hold during the ensuing meeting, all of which shall be subject to the approval of the Racing Commission. The minimum purse for all races shall be two thousand (2,000) dollars.

8.22. The association shall maintain, in an approved depository, the amounts deducted from the pari-mutuel handles for purse distribution as specified by the provisions of West Virginia Code 19-23-10 and this rule.

8.23. An association and its officers are jointly and severally

obligated as part of their duties to ensure that the amounts retained from the pari-mutuel handle are distributed according to the Code and Racing Commission rules.

8.24. An association and its officers shall ensure that all purse monies, disbursements and appropriate nomination race monies are available to make timely distribution in accordance with the West Virginia Code, Racing Commission rules, association rules and race conditions.

8.25. When required by the Racing Commission, an applicant for a license shall also furnish evidence satisfactory to the Racing Commission of applicants' ability to pay all amounts relating to the pari-mutuel commission deductions, salaries of officials and other expenses incident to the horse meeting for which a license is sought. (19-23-7a)

8.26. In the event the applicant is not able to furnish satisfactory evidence of applicants' ability to pay expenses and fees, the Racing Commission may require a surety bond, a letter of credit, or other collateral before the requested license is issued. (19-23-7a)

8.27. If an association conducts racing at night, the association shall maintain a backup lighting system that is sufficient to ensure the safety of race participants and patrons.

8.28. An association shall provide adequate lightning in the stable areas as required by the Racing Commission

8.29. No racing association conducting a race meeting with a license issued by the Racing Commission shall permit wagering to be made on the grounds of the association on any race run outside of the grounds, except as provided by the West Virginia Code. No foreign book or gambling device of any kind shall be permitted on the grounds, nor shall the association provide or permit to be provided any conveniences or facilities for the use of bookmakers, betting commissioners, their agents or their employees, except as provided by the West Virginia Code. No facilities will be provided or permitted for the handling of "Come-back" money at the track. The maintenance of credit accounts or the granting or extension of credit or cash by the association in any form including markers, the payment of commissions in any form, the providing of telephone or other communication services and any other form of aid to bookmakers, betting commissioners, their agents or their employees are prohibited. Any licensee violating the provisions of this

section shall have its license revoked or other penalty imposed as the Racing Commission, in its discretion, may determine. This subsection does not prohibit wire service privileges or any other form of communication service privileges to legitimate and approved news outlets which do not service bookmakers, betting commissioners, or their agents or employees. Approval of the Racing Commission for other forms of communication service privileges must be obtained before the beginning of the race meeting for which the license is granted.

8.30. No racing association shall permit the making of handbooks on its grounds. If this practice is found to exist, the association shall take immediate steps to eliminate this activity under a penalty of having its license revoked. Any horse owner, trainer, jockey, groom or other person having an interest in any horse at the meeting, who shall wager with or through any handbook shall be ejected from the grounds, refused admission to the grounds of all other licensed associations in West Virginia, and in the case of the owner of any horse, the entries of that owner shall be refused for all West Virginia tracks.

8.31. Stands for judges, timers, and stewards shall be maintained in positions commanding an uninterrupted view of the entire racing strip and shall be appropriately maintained and furnished, which shall be subject to approval by the Racing Commission.

8.32. Distance poles of all racing associations shall be standard color designations:

- 1/4 POLES - Red and White
- 1/8 POLES - Green and White
- 1/16 POLES - Black and White

8.33. All potential obstructions installed on and after the effective date of this rule shall be set back a minimum of ten (10) feet from the back of the inside rail. All existing obstructions, shall be moved, back a minimum of ten (10) feet from the back of the rail and/or padded, as mutually agreed upon between racetrack general manager and jockeys, and/or directed by the Racing Commission.

8.34. The association shall maintain a sufficient number of police or security officers to maintain order on all parts of the association grounds. No tipsters shall be allowed in any part of the pari-mutuel wagering area or anywhere else upon the grounds of the

association. No stable hand, exercise rider, groom, jockey, or stable attendant shall loiter in the pari-mutuel wagering area, or any other place with the evident intention of engaging in tipping for any remuneration or no remuneration. Anyone with this conduct shall be immediately escorted to the general manager of the association. His or her badge shall be confiscated and a written report immediately made to his or her employer or supervisor, the stewards and to the Racing Commission. No employer shall harbor or continue to employ any person who has been reported under this rule.

8.35. Post time for the first race at each meeting under the supervision of the Racing Commission shall be approved by the Racing Commission, and each race thereafter shall be run at intervals to be approved by the Racing Commission, unless an emergency arises, in which case the final decision shall be in the hands of the steward representing the Racing Commission.

8.36. All forms of pari-mutuel wagering pools such as daily doubles, perfectas, exactas and similar pools may be used only with the permission of the Racing Commission.

8.37. Each association shall designate an office and suitable parking spaces for the exclusive use of the Racing Commission and all its representatives. The office shall offer sufficient space for private consultation, with office equipment, be equipped with a telephone and it must also have sufficient space for the secure locked storage for Racing Commission records and supplies. The key shall be available only to the Racing Commission or the steward representing the Racing Commission. The Racing Commission employees shall have free access to all parts of the association's grounds while on duty. The association shall likewise provide sufficient office space for the Racing Commission license clerk and Racing Commission security officer as requested by the Racing Commission.

8.38. Each barn shall be numbered and each and every stall therein shall be numbered and a record of each designation filed with the association's racing secretary.

8.39. Any racing association contemplating a change of any kind pertaining to the racing strip, the erection of new buildings, stands or other structures, on the grounds of the association which are to be used as a part of the facilities for conducting a race meeting, shall notify the Racing Commission in writing before any changes are made.

8.40. Each racing association's liability insurance coverage shall have an endorsement naming by position, the following: Three (3) stewards, association's racing secretary, the clerk of scales, the placing judges, the identifiers, starter and state veterinarians, as additional named insured. Include personal liability coverage at the limits of the association policy, but not to be less than five hundred thousand dollars (\$500,000) limit per named official.

§178-1-9. Officials.

9.1. Officials of a race meeting, unless otherwise approved by the Racing Commission, are as follows: Three (3) stewards, three (3) placing judges, clerk of the scales, starter, handicapper, timer, paddock judge, veterinarian, Racing Commission security officer, association's racing secretary, horse identifier, and jockey room custodians.

9.2. The Racing Commission, in its sole discretion, may determine the eligibility of a racing official and, in its discretion, may approve or disapprove any such official for an occupational permit.

9.3 The association may designate persons to fill the positions of officials and request that they be approved for the position. No person shall be approved by the Racing Commission as a steward, placing judge, performance observer or other officials unless he or she has taken and satisfactorily passed an optical examination within one year before the designation.

9.4. Unless prior written approval is obtained from the Racing Commission, no person shall be approved as an official of any race track who is an officer of that racetrack or who has any financial interest in that track, or who has any financial interest in any jockey or horses running on the track except that as an official may have an interest in one or more horses as a breeder.

9.5. No official including a photo finish photographer, security personnel, assistant starter or paddock staff, shall directly or indirectly wager money or any other thing of value on the result of a race.

9.6. Drinking of intoxicating liquor, or any controlled substance, at any time, by any racing official or track employee, occupational permit holder or licensee, or being under the influence of alcohol or any controlled substance while on duty is prohibited.

Any person violating this rule will be relieved of his or her duties by the stewards or a representative of the racing association.

9.7. When a vacancy occurs among the racing officials other than the stewards, and when the association has not notified the stewards of the vacancy before the post time of the first race of the day, or when a vacancy occurs during the running of the races, the stewards shall fill the vacancies immediately.

9.8. All other racing officials herein designated shall be appointed by the association holding the meeting, with the exception of a Racing Commission security officer, a Racing Commission auditor of pari-mutuels, a Racing Commission license clerk and a Racing Commission veterinarian, who shall be appointed by the Racing Commission. The stewards shall be appointed in accordance with Section 10.1 of this rule. All association appointments, however, are subject to the approval of the Racing Commission, which reserves the right to demand a change of personnel for what the Racing Commission, in its sole discretion, deems sufficient reason with the successor to the replaced official to be subject to the approval of the Racing Commission.

9.9. All officials appointed by the Racing Commission, or under the jurisdiction of the Racing Commission, shall attend and participate in such continuing educational courses and training related to thoroughbred horse racing, as the Racing Commission may direct.

§178-1-10. Stewards.

10.1. There shall be three (3) stewards for each race meeting. One (1) of the stewards for each race meeting shall be named by the Racing Commission. The association conducting the meeting shall name the second steward. The two (2) stewards so selected shall name the third. In the event of a disagreement between the two (2) stewards in naming the third steward, it shall then become the duty of the Racing Commission to make the third appointment. In the event a steward is temporarily incapacitated or for some sufficient reason cannot serve, the Racing Commission or state steward shall deputize someone to serve for him or her in his or her absence. Should the association steward be temporarily incapacitated or for some sufficient reasons unable to serve, the racing association shall deputize someone to serve for him or her in his or her absence.

10.2. The stewards are strictly responsible to the Racing

Commission for the conduct of all meetings in every detail, directly or indirectly, pertaining to the racing law and rules of the Racing Commission.

10.3. The stewards have general supervision and authority over all occupational permit holders and other persons attendant on horses and also over the association grounds during a meet.

10.4. All entries and declarations are under the supervision of the stewards, and they may, with notice, refuse the entries of any person or the transfer of any entries. The stewards may also, in their discretion, limit the entries by providing that no horse shall be entered for two (2) races in one (1) day.

10.5. In their discretion and where fraud is suspected the stewards shall have the right to select another jockey to ride a horse.

10.6. No person may refuse to testify before the stewards at any formal hearing on any relevant matter within the authority of the stewards, except in the proper exercise of a legal privilege or unless representation is requested by an attorney or their association.

10.7. A majority vote of the stewards shall decide any question to which the authority of the stewards extends.

10.8. The stewards may suspend anyone whom they have authority to supervise for an indefinite period or they may be fined in an amount not to exceed one thousand dollars (\$1,000), or both. All suspensions and fines must be reported to the Racing Commission. The stewards' jurisdiction to act in any matter occurring during the race meeting extends after the conclusion of the meeting.

10.9. On each racing day and those days when there is no racing but where entries are being taken for the next succeeding day of racing, one or more stewards shall be on duty from the time the association's racing secretary's office opens until the entries are closed.

10.10. The manner of selecting positions of horses at the starting gate shall be determined by lot by the association's racing secretary or his or her designee, in public, at the close of the entries. The horses drawn shall be entitled to the position at the starting gate corresponding to the number drawn.

10.11. Any complaint against any official shall be made to the stewards in writing and be signed by the complainant. All complaints shall be reported to the association's general manager and the Racing Commission, together with the stewards' action.

10.12. The stewards may order an examination at any time of any horse entered for a race or which has run in a race.

10.13. Once it has been determined by management, jockeys, or horsemen that unsafe conditions may exist, the stewards shall consult with the groups involved and after following the cancellation procedures, if any one of the groups concerned believe the conditions to be unsafe, the stewards shall cancel said races.

10.14. The stewards shall determine the extent of disqualification in cases of fouls. The stewards may place the offending horse behind the horse or horses that, in their judgment, the offending horse interfered with or they may place the offending horse last.

10.15. Any two (2) or more horses owned in whole or in part by the same owner shall be coupled in any racing event in which they are entered and shall constitute one (1) wagering interest. Any two (2) or more horses trained by the same trainer regardless of ownership shall be coupled in any racing event and shall constitute one (1) separate wagering interest. Any horse owned in whole or in part by a trainer shall be coupled with any other horse trained by said trainer and shall constitute one (1) separate wagering interest. In the event of disqualification of any part of an entry, it shall be in the discretion of the stewards whether the disqualification shall extend to all or any part of the entry.

10.15.1. In any race ordered split by the association's racing secretary into two (2) or more divisions, horses coupled pursuant to this **section (10.15)** shall be seeded in separate divisions and uncoupled. Post position shall be determined by lot.

10.15.2. Any transfer of ownership or change of a trainer in a stake, handicap, futurity or other special event must occur at least thirty(30)days before the event unless the transferor and transferee can satisfy the board of stewards that the transfer of ownership or change of a trainer was, in fact, an arms length transaction and not for the purpose of evading the coupling rules or any other Racing Commission rule of racing.

10.16. Rulings of the stewards or the Racing Commission,

regarding the order of finish or award of purse money, that are made after the result has been declared official shall in no way affect the pari-mutuel payoff.

10.17. The stewards shall take notice of corrupt riding and other questionable behavior on the racing strip. Complaints can be made by an owner, trainer or the jockey participating in the race, or any official representing the association or the Racing Commission. However, in the failure of the complainant to substantiate the charge, he or she may be fined or suspended.

10.18. The stewards shall have the power to call on any person in whose name a horse is entered to produce proof that the horse entered is not the property, either wholly or in part, of any person who is disqualified. Proof may also be required to show the extent to which anyone has an interest in the horse. In the event the stewards do not receive sufficient proof of ownership they may remove the horse from the race.

10.19. The stewards or the association shall have the power to suspend or exclude from the stands and grounds persons acting improperly or whose behavior is otherwise objectionable. The stewards shall enforce the suspension or exclusion.

10.20. The stewards may demand for inspection any occupational permit holder's papers, and documents with respect to a contract between a jockey and his or her employer or employers, and all documents of an agreement, or the credentials of an authorized agent.

10.21. The stewards have the authority to fine or suspend persons guilty of violating the written policies, rules or regulations of the association.

10.22. The Racing Commission steward shall maintain a detailed log of the stewards' official activities. The log will describe all questions, disputes, protests, complaints, or objections brought to the attention of the stewards on all interviews, investigations and rulings made by the stewards. The log will be available at all times for inspection by the Racing Commission or its designee and by anyone appealing to the Racing Commission.

10.23. The stewards have the authority to interpret the thoroughbred rule and to decide all questions of racing not specifically covered by this rule.

§178-1-11. Racing Secretary.

11.1. The association's racing secretary or his or her assistant, shall discharge all the duties of his or her office, expressed or implied that are required by this rule, and he or she shall report to the stewards in writing all violations of the rules of the meeting.

11.2. The association's racing secretary shall maintain a complete record of all races.

11.3. The association's racing secretary shall receive all entries and declarations, and he or she, or any other person designated by the association shall receive all stakes, entrance moneys and fees incident to the meeting within fourteen (14) days after the conclusion of the meeting. Owners having unpaid jockey or other fees at the close of a race meeting, shall be billed by the racing association within twenty (20) days of the close of their race meet, with a duplicate copy of a bill to the trainer. All accounts are to be paid within thirty (30) days from billing dates. At the expiration of the thirty (30) day period, it shall be the duty of the association to notify the Racing Commission or the stewards, in writing, of all delinquent accounts, at which time all owners with outstanding accounts will be suspended until the fees are paid.

11.4. The association's racing secretary shall compile an official program for each racing day which shall contain the names of the horses which are to run in each race together with their respective post positions, age, color, sex, breeding, jockey, owners or stable name, racing colors, weight carried, conditions of the race, the order in which each race shall be run, the distance to be run and the claiming price if applicable.

11.5. The association's racing secretary shall publish on the program such information and notices to the public as the Racing Commission may direct.

11.6. The association's racing secretary is responsible for any error in the program excluding printing errors corrected on the proof but not corrected by the printer.

11.7. The advertising in the program shall not pertain to wagering facilities outside the enclosure, selections, or recommendations by tipsters and/or those sponsoring off track daily selection cards unless approved by the Racing Commission.

11.8. The association's racing secretary shall be responsible for the safe keeping of registration certificates and their safe return to owners at the conclusion of a meeting.

§178-1-12. Horsemen's Bookkeeper.

12.1. The horsemen's bookkeeper shall maintain the records and accounts and perform the duties described herein and maintain any other records and accounts and perform any other duties as the association and Racing Commission may prescribe.

12.2. The horsemen's bookkeeper shall keep the riding accounts of the jockeys, receive the fees therefor and shall promptly disburse the received fees to their proper claimants.

12.3. The holder of a claim whether it be a mortgage, a bill of sale or lien of any kind against a horse, shall be required to file the same with the horsemen's bookkeeper prior to the time the horse starts. Failure to do so shall forfeit their rights in the winnings of the horse prior to the time their claim is properly filed.

12.4. The records shall include the name, mailing address, social security number or federal tax identification number, and the state or country of residence of each horse owner, trainer or jockey participating at the race meeting who has funds due or on deposit in the horsemen's account.

12.5. All records of the horsemen's bookkeeper shall be kept separate and apart from the records of the association.

12.6. All records of the horsemen's bookkeeper including records of accounts and monies and funds kept on deposit are subject to inspection by the Racing Commission at any time.

12.7. The association is subject to disciplinary action by the Racing Commission for any violations of or a noncompliance with the provisions of this rule.

12.8. The horsemen's bookkeeper shall receive, maintain and disburse the purses of each race and all stakes, entrance money, jockey fees, purchase money in claiming races, along with all applicable taxes and other monies that properly come into his/her possession in accordance with the provisions of Racing Commission rules.

§178-1-13. Placing Judges.

13.1. The placing judges must occupy the judges' stand at the time the horses pass the finish line and indicate the order of finish of the horses. If in doubt of the proper order of finish, they may delay posting the result until first examining the photo of the finish of the race to determine the positions of the horses. Decisions shall be final, unless an objection to the winner or any horse officially placed is made and sustained. Nothing in this section shall prevent the judges from correcting any mistake. The correction is subject to confirmation by the stewards before the "Official" is posted.

13.2. The judges shall determine the order of finishing of as many horses as they may think proper but never less than five (5), if five (5) or more are racing. When the judges differ, the majority shall govern. The finish of each race shall be filed with the association's racing secretary or his or her deputy and with the Racing Commission.

13.3. A camera selected by the association conducting the meeting shall be approved by the Racing Commission and be used to make a photograph or photographs of the horses at the finish to assist the placing judges in determining their positions as exclusively indicated by the noses of the horses.

§178-1-14. Paddock Judge.

14.1. The paddock judge shall have general jurisdiction over the saddling equipment and changes. The identification of horses shall be made by the horse identifier who shall report any irregularities to the paddock judge and stewards.

14.2. The paddock judge shall supervise the assembling of the horses in the paddock, the saddling of the horses, and their departure for the starting gate.

14.3. The paddock judge shall maintain a record of all equipment of a horse saddled for a race. He or she shall report any change to the record to the stewards. No change of equipment shall be made without the prior consent of the stewards.

§178-1-15. Timer.

15.1. The timer shall occupy the timer's stand or other appropriate place, during the running of a race. He or she shall record for display the time of each race.

§178-1-16. Starter.

16.1. Horses are in the hands of the starter from the time they begin to line up for the start until the flag drops indicating the start. During that time, the horses are entitled to no further care from their attendants. If an accident happens to a jockey or his or her equipment, the starter may permit the jockeys to dismount, and the horses to be cared for during the delay, otherwise, no jockey shall dismount.

16.2. All orders necessary in securing a fair start shall be given by the starter.

16.3. Causes of delays, if any should occur, shall be reported by the starter to the stewards.

16.4. Horses shall take their position at the starting gate in the order in which their names have been drawn, beginning from the inside rail. Vicious and unruly horses may be loaded out of order at the discretion of the starter.

16.5. If the number of horses starting in a race does not exceed the capacity of the racing strip but does exceed the number of stalls in the gate, the surplus may be started from an auxiliary gate.

16.6. Except in cases of an emergency recognized as such by the stewards no starting device other than the usual stall gate shall be used in starting a race on the racing strip. Any substitute starting device must have the approval of the Racing Commission.

16.7. Horses shall be schooled in and from the starting gate under the direct personal supervision of the starter or an assistant. The starter shall designate the horses that are to constitute the schooling or trial list. Copies of this list shall be given to the stewards and the association's racing secretary including information pertaining to the horses that are schooled sufficiently to be permitted to run.

16.8. The starter may recommend to the stewards that a jockey be fined or suspended for disobedience of orders or for attempting to gain any unfair advantage.

16.9. No person shall give to any starter or assistant starter, nor shall any starter or assistant starter receive money, anything of value, or other compensation other than the salary paid to them

by the association for the starter's or assistant starter's services in connection with the running of any race or races. No starter, or assistant starter, shall either directly or indirectly wager on any race or engage in any wagering transaction or have any interest in any horse.

16.10. If, for any reason, the doors in front of any stall in a mechanical or electrically operated gate fails to open, thereby preventing a horse from starting when the starter dispatches the field, the entire amount wagered on the affected horse shall be refunded: Provided, That the horse is not part of an "entry" or part of a "field."

16.11. The starter shall daily change the position on the racing strip of each assistant starter. The starter shall not notify the assistant starters of their positions until after the horses shall have left the paddock for the first race.

16.12. Any owner or trainer who desires his or her horse not to be "tailed" or "tonged" at the starting gate by the assistant starters shall make written request to this effect to the starter and that horse will not be "tailed" or "tonged."

16.13. Should a horse or horses break through the gate or unseat his or her rider after part or all of the field is loaded in the gate for the start, and that horse is not immediately taken in hand by the outrider and brought back for reloading, the starter may unload the remaining horses in the gate and reload in their proper order when the runaway horse is brought back in position for loading.

§178-1-17. Clerk of Scales.

17.1. The Clerk of scales shall:

17.1.1. verify the presence of all jockeys in the jockeys' room at the appointed time;

17.1.2. verify that all jockeys have a current jockey's occupational permit issued by the Racing Commission;

17.1.3. verify the correct weight of each jockey at the time of weighing out and weighing in and report any discrepancies to the stewards immediately;

17.1.4. verify any change of jockeys or of an extra or

special weight declared for any horse or any alteration of colors. This information shall be exhibited by the clerk of the scales upon the notice board. The clerk shall immediately have this information announced over the public address system;

17.1.5. record all required data on the scale sheet and submit that data to the horsemen's bookkeeper at the end of each race day;

17.1.6. verify the record of winning races on the applicable apprentice certificates at the meeting; and

17.1.7. supervise the custodian of the jockeys' room, ensure that the jockeys' room is properly equipped and informs the stewards and association of any deficiencies.

17.2. Any overweight in excess of one (1) pound shall be declared by the jockey to the clerk of the scales at least one (1) hour before the time appointed for the race. The clerk shall have the overweight displayed immediately on the notice board and shall cause this information to be forthwith announced over the public address system. Failure on the part of any jockey to comply with this rule shall be reported to the stewards;

17.3. Seven (7) pound is the limit of the overweight any horse is allowed to carry.

§178-1-18. Jockey Room Custodian.

18.1. It shall be the duty of the jockey room custodian to maintain order, decorum, and cleanliness in the jockey and scale rooms.

18.2. The custodian shall assist the clerk of the scales in the performances of his or her duties.

18.3. The custodian shall ascertain that no person, other than racing officials, the Racing Commission, or its representatives, representative of jockeys, and necessary jockey room attendants is admitted to the jockey room on a day of racing without the express permission of the stewards for each time of entry.

18.4. The custodian shall oversee the care and storage of all racing colors.

18.5. The custodian shall oversee the jockeys' attendants and

arrange their rotation among jockeys in the matter of weighing out.

18.6. The custodian shall ascertain that any jockey attendant not approved by the stewards and not holding an occupational permit issued by the Racing Commission is permitted to assist any jockey at any time.

18.7. The custodian shall report any irregularities to the stewards that occur in the jockey room.

18.8. The custodian shall ascertain that jockeys are neat in appearance and attired in keeping with the rules when they leave the rooms to ride in a race.

18.9. The custodian shall not lend money to any jockey or any other person in the jockey room and shall not sell and/or exchange raffle tickets. Nor be involved in any financial transactions of any kind in the jockey room, with the exception of the buying and selling of racing equipment used by the jockeys.

§178-1-19. Handicapper.

19.1. The handicapper, who may be the association's racing secretary, shall assign the weights to be carried by each horse in a handicap.

19.2. The handicapper shall add to the weights for every handicap the day and hour for which winners will be subject to a weight penalty.

19.3. If there are no penalties that fact shall be appended to the weights. No alteration of weights shall be made after publication.

19.4. In case of error or omission, of the name or weight of a horse duly entered, the omission shall be rectified by the handicapper.

§178-1-20. Identifier.

20.1. The horse identifier shall inspect documents of ownership, eligibility, registration or breeding necessary to ensure the proper identification of each horse scheduled to compete at a race meeting.

20.2. The horse identifier shall examine every starter in the

paddock for sex, color, markings and lip tattoo or other identification method approved by the appropriate breed registry and the Racing Commission for comparison with its registration certificate to verify the horse's identity.

20.3. No horse shall be permitted to start that has not been fully identified by the official identifier. Responsibility for providing identification rests with the horse's trainer.

20.4. Any person attempting to establish the identity of a horse or his ownership shall be held responsible to the same extent as the owner, and shall be subject to a fine or suspension in the case of fraud or attempted fraud.

§178-1-21. State Veterinarians.

21. 1. The Racing Commission shall employ graduate veterinarians who are licensed by the West Virginia Board of Veterinary Medicine to be known as the Racing Commission veterinarian. The veterinarian employed by the Racing Commission shall not be permitted during the term of his or her employment to treat or prescribe medication for any horse on the grounds or registered to race at any race track for compensation or otherwise unless an emergency arises. In case of an emergency a full and complete report shall be made to the stewards. No owner or trainer shall employ or pay compensation to any veterinarian either directly or indirectly during the period for which he or she is employed by the Racing Commission. For a violation of this rule the veterinarian, or owner, or trainer may be fined, suspended or not permitted on the association's grounds after a hearing before the Racing Commission.

21.2. The Racing Commission veterinarian shall, in general, familiarize himself or herself with the racing condition of all horses entered to race and, if in his or her opinion, any entered horse is not in condition to race, he or she shall notify the stewards.

21.3. The Racing Commission veterinarian shall be present in the paddock during the saddling, on the race strip during the parade, and at the starting gate and until the horses are dispatched from the gate. He or she shall notify the stewards of any horse which in his or her opinion incapable of physically exerting its best effort to win. The stewards may declare or remove that horse from the race. The Racing Commission veterinarian shall examine any horse which appears to be in physical distress during the race and at the

finish of the race. He or she shall report the condition of the horse, together with his or her opinion as to the cause of the distress to the stewards. The Racing Commission veterinarian shall place those horses who are physically disabled on the veterinarian's list. He or she may remove from the list those horses, which in his or her opinion can satisfactorily compete, in a race. The Racing Commission veterinarian is authorized to humanely destroy any horse which in his or her opinion is so seriously injured that it is in the best interest of racing and humane consideration to do so, and every horse owner and trainer participating in a race in this State does consent hereto.

21.4. Should an owner or trainer, object to a horse in his or her care undergoing an examination, the objection shall be reported to the stewards and that horse may be scratched from the race.

21.5. The Racing Commission veterinarian shall approve employment of all personnel used in the test barn area and shall be responsible to the Racing Commission for the proper operation of the test barn area, the taking of the specimens as directed by the Racing Commission state veterinarian.

21.6. In the event there is a desire to scratch from participation, a horse listed in the program, the Racing Commission veterinarian or his or her designee shall inspect the horse and report his or her findings to the stewards.

§178-1-22. Bleeders.

22.1. A list of all horses that have bled within the last two (2) years shall be maintained by the Racing Commission veterinarian in the association's racing secretary's office.

22.2. A first time bleeder shall be placed on the veterinarians' list and remain on the list for a minimum of ten (10) calendar days. A second time bleeder shall be placed on the veterinarians' list and remain on the list for a minimum of thirty (30) calendar days. A bleeder in the above categories is automatically released from this list after these dates. A horse that bleeds three (3) times, within a twelve (12) month period shall be barred from further racing in West Virginia for a period of one (1) year.

§178-1-23. Practicing Veterinarian.

23.1. All veterinary practice must conform to the laws of West

Virginia relating to agriculture and veterinarians. Every veterinarian, who examines or treats a horse within the racing association's grounds, must hold an occupational permit issued by the Racing Commission. Any duly licensed veterinarian shall list his or her name in the office of the association's racing secretary. The association's racing secretary shall remove from the list, all unlicensed veterinarians. All licensed veterinarians must maintain a written record of his or her treatment administered, including the name of any and all drugs and medicines administered or prescribed for a horse or any other animal on the association's grounds. This record shall be made available upon request of the stewards or the Racing Commission. The penalty for falsification of any report or written record, or the failure to maintain the records, shall result in the permanent barring from the racing grounds under the jurisdiction of the Racing.

23.2. Veterinarians practicing veterinary medicine on a race track shall use one (1) time disposable type needles and shall keep them in his or her possession until disposed of by him or her off the racetrack grounds. No one other than a licensed veterinarian may have a needle or syringe or other veterinary instrument of any kind, type or description nor any injectable which might be administered by such needle or syringe on his or her person or in custody, control, or in the possession of any of his or her employees.

23.3. Any illness or unusual symptoms of illness shown by a horse shall be immediately reported by the trainer or attending veterinarian to the stewards, the Racing Commission, and Racing Commission veterinarian.

23.4. In case of any illness or unusual symptoms of illness which might be or deemed to be contagious, the stewards are empowered to employ, at the expense of the association, a board of three (3) veterinarians, licensed by the State of West Virginia, for the purpose of diagnosis, observation and/or treatment. The decision of the board of stewards with reference to the necessity of isolating any horse shall be binding upon the trainer and owner thereof.

23.4.1. The reasonable cost and expense of isolation, including boarding and medical care, shall be borne by the owner or trainer of the horse during the period of isolation.

23.4.2. In the event of the positive diagnosis of any infectious disease, the diagnosed horse shall remain isolated and

quarantined for a period as the board of stewards may determine.

23.4.3. No horse shall be removed from quarantine without permission of the board of stewards.

23.5. No horse shall be destroyed on the grounds of an association until the horse has been observed by the Racing Commission veterinarian, unless an emergency arises at which time the attending veterinarian may destroy the horse and subsequently notify the Racing Commission veterinarian.

§178-1-24. Test Barn.

24.1. A suitable building approved by the Racing Commission must be set aside for a test barn area. The test barn shall be under the supervision of the Racing Commission veterinarian for the purpose of collecting specimens for any test required by the Racing Commission.

24.1.1. The test barn must be equipped with:

24.1.1.1. a walk area that is large enough to accommodate four (4) horses;

24.1.1.2. at least four (4) enclosed stalls that permit observation of the collection process and provide for the protection of collection personnel;

24.1.1.3. facilities and equipment for the collection, identification, and storage of samples;

24.1.1.4. a wash rack or wash stall that is large enough to accommodate two(2)horses at the same time;

24.1.1.5. hot and cold running water;

24.1.1.6. clean water buckets for each horse; and

24.1.1.7. any other items requested by the Racing Commission.

24.1.1.8. The test barn shall be kept locked at all times when not in use. The only persons authorized to have keys shall be the (1) racetrack general manager, (2) Racing Commission veterinarians and (3) track superintendents, (4) senior veterinary assistant.

24.1.2. During the operation of the test barn, a guard shall be stationed at the gate. He or she shall be provided a log to sign in and sign out all persons, including the person or persons accompanying the horse. A trainer may enter the test barn to inspect his or her horse. He or she must sign in and sign out in a log book.

24.1.3. Not more than two (2) persons shall accompany the horse into the test barn. The horse shall be washed and walked for a minimum of ten (10) minutes before attempting to collect the sample. No horse or his or her groom shall be permitted to leave the barn until a sample has been obtained or has been otherwise excused by Racing Commission veterinarian.

24.1.4. All veterinarian assistants collecting urine samples shall remain in the test barn after the arrival of the first horse until they have completed their duties for the night, unless excused by the Racing Commission veterinarian.

24.1.5. Once any individual has departed the test barn, he or she shall not be permitted to reenter. This does not apply to the trainer of a horse in the test barn, Racing Commission veterinarian, track veterinarian, and other Racing Commission personnel. However, an individual may reenter to attend a different horse.

24.1.6. All equipment used in washing and cooling horses shall be provided by the association.

24.1.7. All samples shall be frozen and forwarded to the approved laboratory by the Racing Commission designee. All laboratory expenses for sample analysis will be paid by the racing association.

24.1.8. The Racing Commission veterinarian may authorize the horse to return to his barn under security for the purpose of collecting a sample.

24.2. A security person shall accompany the horse or horses from the winner's circle to the test barn after each race.

24.3. The winner of every race and any other horses the stewards may designate shall be taken immediately after the race to the test barn to provide specimens as directed by the Racing Commission veterinarian.

24.4. The stewards of the meeting may require at any time that any horse be sent to the testing barn to provide specimens of saliva and/or urine and/or blood, as well as for an examination for "sponging" and any other examination as may be directed by the Racing Commission veterinarian.

24.5. The Racing Commission steward or Racing Commission

veterinarian may also require any horse stabled at a racetrack during a meeting to provide any or all of the foregoing specimens.

24.6. The owner, trainer, or other authorized representative must be present when saliva, urine, or other specimen is taken from his or her horse. The authorized representative must remain until the specimen is sealed and they must sign the official form as witness to the taking of the specimen. Willful failure to be present at or a refusal to allow the taking of any specimen, or any act or threat to impede or prevent or otherwise interfere with the testing procedure, shall subject the person or persons guilty thereof to immediate suspension.

24.7. The Racing Commission veterinarian, with the approval of the Racing Commission, may impose any additional local procedures for operation of test barn area as are deemed necessary.

§ 178-1-25. **Chemist.**

25.1. The official chemists selected by the Racing Commission shall be members in good standing of the Association of Official Racing Chemists and shall make all reports directly to the secretary of the Racing Commission.

25.2. All specimens taken by or under direction of the official veterinarian or other authorized representative of the Racing Commission shall be delivered to the laboratory of the official chemist for analysis. Each specimen shall be marked and bear such information as may be essential to its proper analysis. But the identity of the horse from which the specimen was taken or the identity of its owner, trainer, jockey or stable shall not be revealed to the official chemist or his staff. The container of each specimen shall be sealed as soon as the specimen is placed therein.

25.3. The official veterinarian, the stewards or the authorized representatives of the Racing Commission may take samples of any medicines or other materials suspected of containing improper medication or drugs which could affect the racing condition of a horse in a race, which may be found in stables or elsewhere on race tracks or in the possession of such tracks or any person connected with racing, and the same shall be delivered to the official chemist for analysis under the same conditions as are prescribed for analysis of urine. The same may be retained by the Racing Commission.

25.4. No action shall be taken by the stewards on the report of the official chemist unless and until the medication or drug has been properly identified as well as the horse from which the specimen was taken nor until such time as an official report signed by the chemist has been received by the Racing Commission state steward.

§ 178-1-26. Split Samples

26.1. Before sending a sample from a horse to a testing laboratory, the Racing Commission veterinarian or a designated employee shall divide the specimen into two (2) parts.

26.2. The primary testing laboratory shall receive a minimum of fifty (50) milliliters of urine. A specimen shall not be split if less than fifty (50) milliliter of urine is collected from horses. In such instances, the Racing Commission is entitled to submit the entire urine or blood specimen for testing or detain the horse for an adequate amount of time until it can be obtained.

26.3. If the split sample testing laboratory determines that there is insufficient sample volume to make a specific identification of the sample contents, or if an act of God, power failure, accident, labor strike, or any other event beyond the control of the Racing Commission or its representatives prevents the split sample from being tested, then the results of tests performed by the primary laboratory shall be considered prima facie evidence of the condition of the horse.

26.4. The Racing Commission veterinarian shall retain the part of the specimen that is not sent to the primary laboratory.

26.4.1. The Racing Commission veterinarian shall store the retained part of the specimen in secure, limited access, frozen storage at a site approved by the Racing Commission for the period required by this section.

26.5. If the retained part of a specimen is sent for testing, the Racing Commission veterinarian shall arrange for the transportation of the specimen in a manner that ensures the integrity of the sample.

26.6. Blood samples shall be split in a manner that hemolysis is minimized. Blood samples shall be mixed and centrifuge and the plasma separated and stored frozen.

26.7. If the results of the initial test on a specimen are negative, the Racing Commission state veterinarian may discard the retained part of the specimen upon receipt of the negative result. If the result of the initial test on a specimen is positive, the Racing Commission veterinarian may discard the retained part of the specimen after the expiration of the period during which an owner or trainer may request the retained part be sent for split testing.

26.8. The identity of the drug or drug metabolites shall be revealed to the split sample laboratory. Communication between the primary and split laboratory is limited to the exchange or the analytical method and the threshold level used to confirm the drug's identity.

§ 178-1-27. Administrative procedures prior to split sample testing.

27.1. The results of all tests performed by the primary laboratory are confidential and shall only be communicated to the Racing Commission, stewards, owner and trainer.

27.2. The trainer or owner of a horse for which a positive result on a drug test is returned may request that the stewards submit the retained part of the specimen for testing in accordance with this section. The specimen must be tested by a laboratory that is approved by the Racing Commission.

27.3. The request must be in writing and must be delivered to the stewards no later than seventy-two (72) hours after the trainer has received notice of a positive test result. The split sample laboratory shall be contacted by a representative of the Racing Commission to request acceptance of a split sample.

27.4. The trainer or owner may elect to waive his or her right to testing of a split sample. If a trainer desires to waive the right to test the split sample, he or she must procure prior written authorization from his or her owner to waive such right.

27.5. The owner or trainer of a horse who submits a specimen for drug testing is entitled to be present or have a representative present at any time that the retained part of the specimen is prepared for storage or is tested.

27.6. The owner or trainer of a horse who submits a specimen for testing to a split sample laboratory must execute a hold harmless agreement for the split sample laboratory and an agreement

that the results of the split sample laboratory can be introduced as evidence in any hearing. The agreements shall remain in the hands of the Racing Commission steward of the state in which the positive was reported.

§ 178-1-28. Administrative procedures subsequent to a split sample.

28.1. The split sample laboratory shall send a confidential written report on the result of its tests to the Racing Commission steward.

28.2. No action shall be taken against the trainer or owner if the results of the split sample testing are negative.

28.3. No hearing shall be held concerning the allegations against the trainer or owner, nor shall purse redistribution take place, until split sample testing has been completed and the results of the primary laboratory have been confirmed.

28.4. The owner or trainer shall be notified in writing of;

28.4.1. the results of the primary and split sample laboratories in the case of confirmed positives; and

28.4.2. time and place of any administrative hearings resulting from the findings.

§ 178-1-29. Cost of split sample testing.

29.1. In order for a split sample laboratory to be identified on the list of approved laboratories, it must establish reasonable fees for split sample testing based on their actual cost of testing. Fees for split sample testing shall include the cost of testing negative control samples if requested by the owner or trainer.

29.2. The trainer or owner requesting split sample testing and negative control samples shall pay all costs of transporting and conducting tests on the split sample and negative control samples.

§ 178-1-30. Storage and shipment of split samples

30.1. Split samples obtained shall be secured and made available for further testing in accordance with the following procedures:

30.1.1. A split sample shall be secured in the test barn

under the same manner as the portion of the specimen acquired for shipment to a primary laboratory until such time as specimens are packed and secured for shipment to the primary laboratory. Split samples shall then be stored in a freezer at a secure location approved by the Racing Commission.

30.1.2. A freezer for storage of split samples shall be opened only for depositing or removing split samples, for inventory, or for checking the condition of samples.

30.1.3. Any evidence of a malfunction of a split sample freezer or samples that are not in a frozen condition during storage shall be immediately reported to the official veterinarian or a designated Racing Commission representative.

30.2. A trainer or owner of a horse having been notified that a written report from a primary laboratory states that a prohibited substance has been found in a specimen obtained pursuant to these rules may request that a split sample corresponding to the portion of the specimen tested by the primary laboratory be sent to another laboratory approved by the Racing Commission. The request must be made in writing and delivered to the stewards not later than 48 hours after the trainer of the horse receives written notice of the findings of the primary laboratory. Any split samples so requested must be shipped within an additional 48 hours.

30.3. The owner or trainer requesting testing of a split sample shall be responsible for the cost of shipping and testing. Failure of the owner, trainer or designee to appear at the time and place designated by the official veterinarian shall constitute a waiver of all rights to split sample testing. Prior to shipment, the Racing Commission shall confirm the split sample laboratory's willingness to provide the testing requested, the laboratory's willingness to send results to both the person requesting the testing and the Racing Commission, and arrangements for payment satisfactory to the split sample laboratory. A split sample testing laboratory must be accredited by the Association of Racing Commissioners International and approved by the Racing Commission. If an Association of Racing Commissioners International reference laboratory will accept split samples that laboratory must be included among the laboratories approved for split sample testing.

30.4. Prior to opening the split sample freezer, the Racing Commission shall provide a split sample chain of custody verification form that shall provide a place for recording the following information and any other information as the official

veterinarian may require. The form shall be fully completed during the retrieval, packaging, and shipment of the split sample. Split sample chain of custody form requirements:

30.4.1. the date and time the sample is removed from the split sample freezer;

30.4.2. the sample number;

30.4.3. the address where the split sample is to be sent;

30.4.4. the name of the carrier and the address where the sample is to be taken for shipment;

30.4.5. verification of retrieval of the split sample from the freezer;

30.4.6. verification of each specific step of the split sample packaging in accordance with the recommended procedure;

30.4.7. verification of the address of the split sample laboratory on the split sample package;

30.4.8. verification of the condition of the split sample package immediately prior to transfer of custody to the carrier; and

30.4.9. the date and time custody of the sample is transferred to the carrier.

30.5. A split sample shall be removed from the split sample freezer by a Racing Commission representative in the presence of a representative of the horsemen's association.

30.6. The Racing Commission representative shall pack the split sample for shipment in the presence of the owner/trainer or designee, in accordance with the packaging procedures recommended by the Racing Commission. A form shall be signed by both the horsemen's representative and the Racing Commission representative to confirm the packaging of the split sample. The exterior of the package shall be secured and identified with initialed tape, evidence tape or other means to prevent tampering with the package.

30.7. The package containing the split sample shall be transported to the location where custody is transferred to the delivery carrier charged with delivery of the package to the Racing Commission-approved laboratory selected by the owner or trainer.

30.8. The owner, trainer or designee and the Racing Commission representative shall inspect the package containing the split sample immediately prior to transfer to the delivery carrier to verify that the package is intact and has not been tampered with.

30.9. The split sample chain of custody verification form shall be completed and signed by the representatives of the Racing Commission and the owner or trainer. A Racing Commission representative shall keep the original and provide a copy for the owner or trainer.

§ 178-1-31. Trainer responsibility.

31.1. The trainer is responsible for:

31.1.1. the condition and contents of stalls, track rooms, feed rooms, sleeping rooms and other areas which have been assigned by the association;

31.1.2. maintaining the assigned stable area in a clean, neat and sanitary condition at all times;

31.1.3. ensuring that fire prevention rules are strictly observed in the assigned stable area;

31.1.4. the proper identity, custody, care, health, condition and safety of horses in his or her charge;

31.1.5. disclosure of the true and entire ownership of each horse in his or her care, custody or control. Any change in ownership shall be reported immediately to, and approved by, the stewards and recorded by the association's racing secretary.

31.1.6. having each horse in his or her care that is racing, or is stabled on association grounds, tested for Equine Infectious Anemia (EIA) in accordance with state law (see 178-1-32.40) and for filing evidence of such negative test results with the association's racing secretary;

31.1.7. using the services of those veterinarians issued an occupational permit by the Racing Commission to attend horses that are on association grounds;

31.1.8. maintaining a knowledge of the medication record and status of all horses in his or her care;

31.1.9. immediately reporting to the stewards and Racing Commission veterinarian if he or she knows, or has cause to believe, that a horse in his or her custody, care or control has received any prohibited drugs or medication;

31.1.10. representing an owner in making entries and scratches and in all other matters pertaining to racing;

31.1.11. horses entered as to eligibility and weight or other allowances claimed;

31.1.12. ensuring the fitness of a horse to perform creditably at the distance entered;

31.1.13. ensuring that his or her horses are properly shod, bandaged and equipped;

31.1.14. instructing the jockey to give his or her best effort during a race and that each horse shall be ridden to win;

31.1.15. notifying horse owners upon the revocation or suspension of his or her trainer's permit. Upon application by the owner, the stewards may approve the transfer of such horses to the care of another occupational permit holder trainer, and upon such approved transfer, such horses may be entered to race.

31.2. The trainer shall be the absolute ensurer of and responsible for the condition of the horse entered in an official workout or a race, regardless of the acts of third parties. If the chemical or other analysis of saliva, urine samples, and/or other tests prove positive showing the presence of any narcotic, stimulant, depressant, local anesthetic, or any other drug or medication not authorized, the trainer of the horse may have any or all of the following penalties inflicted: Be fined, suspended or revocation of his or her occupation permit, or be prohibited from access to the licensed racetrack and, in addition, the owner of the horse, the foreman in charge of the horse, the groom and any other person shown to have had the care, of the horse may have any or all of the following penalties inflicted: Be fined, revocation of his or her occupation permit, or be prohibited from access to the licensed racetrack.

§178-1-32. Camera and film patrol.

32.1. All licensed race tracks must install and use an approved type "film patrol" with not fewer than three (3) cameras operating from positions designated by the Racing Commission.

32.2. Each racing association shall furnish and maintain at its track at all times during the period of racing the necessary cameras and equipment to produce motion pictures or video tape of each race from start to finish. All cameras and camera equipment necessary in their operation shall be approved by the Racing Commission. The film of all pictures taken during a race shall be retained by the racing associations for a period of not less than three (3) months and shall be available at all times during that period to the Racing Commission.

32.3. On all racetracks, a proper camera shall be installed as an aid to the placing judges. However, in all cases, the camera is merely an aid and the decision of the placing judges shall be final. The type of equipment used by the operator shall be approved by the Racing Commission.

32.4. No photographer, other than the official photographer holding an occupational permit, shall be permitted on the racetrack unless special permission is granted by the stewards or the Racing Commission, and then only for pictures as are specifically requested and in places as are indicated by the stewards or the Racing Commission.

32.5. On all racetracks, the operator of the camera taking pictures approaching the finish line and in the winner's circle after the race shall be approved by the Racing Commission. In all cases when a still picture is taken, the operator must direct his or her camera at a point away from the finish line unless special permission is granted by the stewards or the Racing Commission.

32.6. All associations shall keep on file for the duration of the meeting and one (1) month thereafter, each plate, film, or finish pictures of each race for reference or reproduction upon request of the racing Commission.

§178-1-33. Policing.

33.1. Each association shall maintain and furnish police or security guard service as may be needed or requested by the Racing Commission. The police or security is to be fully empowered to enforce law and order and cooperate in the enforcement of this rule.

33.2. Each association shall police its grounds at all times in such a manner as to preclude the admission of any person in and around the stables with the exception of those persons having bona fide business or holding an occupational permit issued by the Racing Commission.

33.3. A written report shall be made to the Racing Commission daily by the head of the security department at each race track, which detail all arrests or persons booked in their office. This report shall also include all persons picked up for drunkenness, touting, disorderly conduct, fraudulent use of badges, or other misdemeanors and give in detail the charges, together with the names and addresses of the offenders.

33.4. The Racing Commission, after prior consultation with the racing association, may designate not more than three (3) persons as special investigators, whose duties and responsibilities shall be fixed by the Racing Commission. Compensation of these persons shall be paid by the associations. Compensation shall not exceed that which is comparable for like or similar services in the geographical area of the association.

§178-1-34. Sanitation.

34.1. Each racing association shall maintain adequate rest room facilities such as baths, toilets, etc. for the use of jockeys, pari-mutuel employees, horsemen and other employees, as may be required by the Racing Commission.

34.2. All used bedding and manure shall be removed from the stalls daily and shall be deposited at a place designated by the association. The association shall daily remove all bedding and manure from the stable area.

34.3. Each trainer shall keep all hay, grain and other feed covered and in a sanitary manner.

§178-1-35. Colors and equipment.

35.1. All racing colors carried in races shall be registered annually with the racing association.

35.1.1. No person shall start a horse in racing colors other than those registered in his or her own or assumed name, but a temporary change from the recorded racing colors may be approved by the stewards.

35.1.2. Any dispute between claimants and the right of the particular racing colors shall be decided by the stewards.

35.1.3. The racing association shall not permit the use of colors which, in its opinion, are not neat, clean, and proper in all respects.

35.2. The racing association, at its discretion, may declare certain colors or parts thereof to be standard for specific post position and, in such situations, the association shall supply the colors.

35.3. Permission for any change of equipment from that which a horse carried in his last previous race, during the current meeting may be obtained from the stewards only or their designee.

35.4. Permission to add blinkers to a horse's equipment or to discontinue the use of blinkers must be approved by the starter before being granted by the stewards.

35.5. Permission to use or discontinue the use of a tongue tie must be secured from the stewards. Under no circumstances shall the material to be used as a tongue tie be furnished by anyone other than the trainer of the horse on which it is to be used. No employee of the association shall be permitted to tie the tongue, replace, or repair a tongue tie.

35.6. A horse starting in a race shall not be shod with ordinary or training shoes, nor shall the horse run without shoes unless by permission of the stewards.

35.7. Oversized horseshoes on which the trailing portion of the shoe is turned down are prohibited at licensed racetracks.

35.8. Bar plates may be used only with the consent of the stewards and their discontinuance must be approved by the stewards.

35.9. Whips and/or blinkers may be used on two (2) year Olds as well as other first time starters if schooled or reviewed by the starter with such equipment, and approved by the starter and the stewards before time of entry.

35.10. The use of plastic bridles and/or reins is prohibited unless they are steel reinforced.

35.11. No bridle shall exceed two (2) pounds in weight, and no whips shall exceed one (1) pound in weight or thirty (30) inches in length, unless approved by the stewards.

§178-1-36. Declarations and scratches.

36.1. No horse shall be considered scratched from a race until the trainer, or some person deputized by him or her shall have given due notice in writing to the association's racing secretary before

the time stipulated by the regulations of the association.

36.2. For stakes races, if a horse is not named through the entry box at the usual time of closing, the horse is automatically scratched.

36.3. The declaration of a horse from a race is irrevocable.

36.4. Scratches from stakes races will close forty-five (45) minutes before post time for that race.

36.5. If the miscarriage of any declaration by mail or otherwise are alleged, satisfactory proof of such miscarriages shall be required of the complainant. Otherwise, the declaration shall not be accepted.

36.6. No horse in an overnight race shall be scratched without the approval of the stewards.

36.7. A report from the Racing Commission veterinarian shall be given to the stewards and shall be used only as an aid in determining the final decision of a request to "scratch."

36.8. Horses listed as "also eligible" shall be selected into a race by lot unless a scratch card has been deposited by scratch time the day of the race. Horses listed as "also eligible" will have the preference of scratching. Horses listed as "also eligible" for which a scratch card has been deposited shall be given the following consideration:

36.8.1. if there are no scratches among horses assigned post positions, the preferential status of horses on the also eligible list shall remain unchanged.

36.8.2. if the opportunity to start, as determined by lot, is refused by scratching, that horse shall lose all preference.

36.8.3. if the opportunity to start, as determined by lot, is not provided, the preferential status of the horses shall remain unchanged.

36.9. In all races with more than eight (8) horses, trainers may withdraw a horse to this number by the specified scratch or elimination time on the day of the race. This right is to be determined by lot when necessary. In all races involving the twin-trifecta and the tri-superfecta, no entry may be withdrawn that would reduce the starting field to less than ten (10) interests

without permission of the stewards.

§178-1-37. Disciplinary Action.

37.1. No racing official other than the stewards shall have the right to impose a fine or suspension. The starter may recommend disciplinary action to the stewards.

37.2. All fines shall be paid to the Racing Commission license clerk at the Racing Commission office within forty-eight (48) hours after their imposition.

37.3. No person shall assume or pay, directly or indirectly, a fine imposed upon another.

37.4. An unpaid fine may not be rescinded except with the approval of the Racing Commission.

37.5. Violators of any rule shall be subject to ejection from the grounds and/or a fine, suspension, or not permitted on the association's grounds.

37.6. If any representative of the licensee or occupational permit holder is guilty of using profane, indecent or vulgar language to any racing official, or has any explosives or incendiary device, firearm, or other deadly weapon in a vehicle under their control or in his possession, or any areas that are under their control, and/or otherwise disturbs the peace on any race track grounds, he or she may be fined, and/or suspended.

§178-1-38. Engagements and Transfer.

38.1. If a horse is sold by private treaty or at a public auction, the written acknowledgment of both parties is necessary to prove the fact that the horse was sold with its engagements. However, when a horse is claimed or purchased from a claiming race, the horse's engagements are included. The sale of a horse under any circumstances to a non-eligible person shall not give that person the privilege of racing the horse.

38.2. No horse entered in a race may be sold or transferred until after the race has been run in which the horse is entered without permission of the stewards. A horse entered shall not be transferred to another trainer until after the race in which he is entered has been run, unless permission is obtained from the stewards.

38.3. Subscriptions and all entries or rights of entry are valid when a horse is sold with its engagements duly transferred when there exists duly registered partnerships holding subscriptions, entries, and rights of entries with the surviving partners, including when entries under the decedent's subscriptions have been made prior to the decedent's death by the transfer of the right of entry.

38.4. Subscriptions and all entries or rights of entry under them become void on the death of a subscriber, except in case a surviving partnership or except subject to the approval of the stewards when the personal representative of an estate shall, in writing, request that the benefits of such accrue to the estate of the decedent subscriber for the privilege of transfer, and shall agree to assume any and all obligations incident to the original entries.

38.5. No person shall make or receive the transfer of a horse or engagement for the purpose of evading disqualification.

38.6. As long as the name of a person is on the arrear's list, no engagements can be transferred or accepted by him or her, and no horse can be entered by him or her or under their subscription for any race.

38.7. When a seller fails to withdraw a horse from a race, when the engagement for that race is not sold or transferred with the horse, the purchaser is not entitled to start the horse or entitled to the stakes if the horse wins.

38.8. If a horse is sold with its engagements or any part of them, the seller cannot withdraw the horse from any engagements.

§178-1-39. Entries, Declarations and Subscriptions.

39.1. When a person is excluded from a racetrack or suspended, every horse owned, in whole or in part, by him or her or under his or her care and control shall be ineligible to be entered or start in any race until that person's horse has been reinstated, either by the rescinding of his or her owner's penalty or by the horse's transfer through a bona fide sale to an ownership acceptable to and approved by the stewards or Racing Commission.

39.2. When a person is excluded from a racetrack or suspended, he or she shall not be qualified, whether acting as agent or otherwise, to subscribe for, to enter, or run any horse in any race either in his or her own name or in that of any other person until

the rescinding of their penalty.

39.3. No horse shall be registered for racing or permitted to enter or start in a race unless stabled on the grounds of the association conducting the meeting or at other stabling facilities. Horses may be rotated if approved by the association's racing secretary. This rule shall not prohibit entry or nomination of a horse or horses in a handicap, stakes or allowance race if being transported in to participate in these specific races.

39.4. No person shall willfully enter, or cause to be entered, or start a horse which he or she knows or believes to be ineligible or disqualified.

39.5. A horse shall not be qualified to start in any race unless the horse has been entered and continues to qualify.

39.6. No horse shall be allowed to race unless it has been lip tattooed.

39.7. For all races, the association's racing secretary is the person authorized to receive entries and declarations.

39.8. Entries and declarations may be made in writing and signed by the trainer of the horse, or his or her authorized agent, or some other person deputized by him or her. Entries and declarations may be made through an electronic device, and each association shall provide blank forms on which entries and declarations are to be made.

39.9. A signed entry blank shall be prima facie evidence that the contents of the entry blank express the desires and intent of the person making entry.

39.10. Entries may be made by telephone or other electronic devices approved by the Racing Commission or their designee.

39.11. No person not having an interest in a horse that is equal at least to the ownership interest of any other individual is entitled to enter the horse in a race as the owner.

39.12. Joint subscriptions and entries may be made by one or more of the owners. However, all individuals and each of them shall be jointly and separately liable for all fees and forfeits.

39.13. In entering a horse, it must be clearly identified by stating its age, sex, name, color, names of its sire, and dam. If

the registration certificate indicates the dam was covered by more than one (1) stallion, the names of all stallions must be given in order of stud service.

39.14. The stewards shall have power to call on any person in whose name a horse is entered to produce proof that the horse entered is not the property either wholly or in part of any person who is disqualified, and produces proof of the extent of his or her interest or property in the horse. In default of proof being given to their satisfaction, the stewards may declare or eliminate the horse from the race.

39.15. The entries of any person, or the transfer of any entry, may be refused with notice and the reason given therefor.

39.16. No horse shall be allowed to start in any race unless duly registered and named with the registry office of The Jockey Club with the Certificate of Registration properly endorsed to the current owner being on file with the association's racing secretary one-half ($\frac{1}{2}$) hour before post time of the first race. For good cause the stewards may waive this requirement if the horse is otherwise properly identified.

39.17. If a horse's name is changed, his new name shall be registered with The Jockey Club and no entry shall be accepted until such time as a new Certificate of Registration has been issued by The Jockey Club.

39.18. Two (2) "year old" and up maidens shall be permitted to start in West Virginia. Any horse thirteen (13) years of age or older will not be allowed to start in West Virginia unless special permission is granted by the Racing Commission or its representative in response to a request by anyone who holds an occupational permit.

39.19. No horse shall be permitted to enter or to start in any race unless the horse is supervised, including saddling, by a trainer who holds an occupational permit in West Virginia.

39.20. No horse shall be permitted to start whose name and true ownership are not registered with the association's racing secretary.

39.21. The entry of a horse must be in the name of his or her valid owner.

39.22. A horse must be eligible at the time of starting.

39.23. No horse owned by a partnership shall be permitted to enter or to start until the rules for the registration of the partnership have been complied with.

39.24. If an entry from any disqualified person or a disqualified horse is received, the entry shall be void and any money paid for that entry shall be returned if the disqualification is disclosed forty-five (45) or more minutes before post time for the race. Otherwise, any money shall be paid to the winner.

39.25. No horse on the schooling list, veterinarian list or stewards lists, shall be qualified to be entered, or to start in a race.

39.26. No owner or trainer shall enter or start a horse that:

39.26.1. is not in sound racing condition;

39.26.2. is a known bleeder unless permitted under section 22.2 of this rule;

39.26.3. has been trachea-tubed;

39.26.4. has been "nerved," except as provided for in this rule; or

39.26.5. is afflicted by the disease known as periodic ophthalmia, moon blindness or similar disease afflicting the vision.

39.27. If a horse is sold to a disqualified person, the horse's racing engagements shall be void as of the date of sale.

39.28. No horse shall be allowed to enter or to start in any race if the owner of that horse is in financial arrears, except with the approval of the association's racing secretary or stewards.

39.29. No more than two (2) horses of the same ownership or interest shall be entered and start in a purse race except:

39.29.1. When making an entry, the trainer must express a preference. In no case may two (2) horses start as an entry even though uncoupled for wagering purposes if this deprives a single entry from starting.

39.29.2. Stake rules shall apply at all racetracks regardless of size. In a stake, futurity or other special event any two (2) or more horses entered that are owned in whole or in part by the

same owner or trained by the same trainer shall be given an equal draw according to the eligibility conditions of the race. These horse shall be coupled as set forth under Racing Commission rule 10.15.

39.30. In the races comprising the daily double, only one (1) horse may be raced in a single interest, or trained by one (1) trainer. No entries shall be allowed in the races comprising the daily double, trifecta, trizacta, super exacta, superfecta, and/or big perfecta etc. except in a stake, futurity or other special event two (2) or more horses racing as a coupled entry may be allowed, with the approval of the Racing Commission.

39.31. The association's racing secretary may split or divide any overnight race which may have closed and conduct a new drawing for post positions.

39.32. Entries shall be closed at an advertised time with no entry accepted thereafter. The association's racing secretary, however, may postpone closing or filling of overnight races.

39.33. If due to racetrack limitations the number of entries to any purse race is in excess of the number of horses that may be permitted to start, the horses for the race and their post or starting gate positions shall be determined by lot in public. The same methods shall be employed in determining the horses and post or starting positions in split races.

39.34. If the ownership of a horse is changed through claiming or transfers, the original registration certificate shall be delivered to the new owner.

39.35. Any occupational permit holder refusing to deliver any registration certificate, if reasonably available, shall be suspended until delivered.

39.36. Entries which have closed shall be compiled without delay by the association's racing secretary and conspicuously displayed.

39.37. No alteration shall be made in any entry after closing of entries with the exception of the opportunity to correct an error.

39.38. Any horse which has been excused from starting due to sickness or physical disability will not be eligible to start for a minimum of five (5) calendar days, exclusive of the day of the

horse's removal. The entry must be accompanied by a written certificate of fitness from the Racing Commission veterinarian and be approved by the stewards.

39.39. Mares who are or who may be in foal will not be eligible for racing unless full information as to services or breeding has been filed with the association's racing secretary and approval has been given by the track veterinarian. This information will be posted on the bulletin board in the association's racing secretary's office. If the in-foal mare is claimed, the original owner shall supply the stallion service certificate to the owner of that mare at the time of foaling.

39.40. No horse shall be permitted on the grounds of a racing association in this State unless the horse has had a negative Coggins test within the past twenty-four (24) months if stabled in West Virginia or six (6) months if stabled out of the State of West Virginia. All horses from a state with a program comparable to the West Virginia program shall be permitted on the grounds of a racing association if accompanied by an official health certificate giving a positive description of the animal and showing a negative Coggins test within the last twelve (12) months. If a horse is in the entries, and if the Coggins' test has expired, blood will be taken and the horse will be allowed to run for a period no longer than thirty (30) days from the date that the blood is drawn, at which time the actual Coggins' test result must be submitted.

39.41. No entry shall be received of any horse that is not stabled upon the grounds of the racing association where the race is run, unless the horse is stabled in an area with the approval of the Racing Commission or stewards.

39.42. No entry shall be accepted from husband or wife while either is disqualified from racing. For the purpose of this rule, husband and wife shall be considered as one unless legally separated and evidence of the separation is on file with the Racing Commission.

§178-1-40. Also Eligible.

40.1. A list of names, number to be determined by the association's racing secretary, may be drawn from the overflow entries and listed as "also eligible" to start if and when horses originally listed are "scratched." Horses gaining a position in the race from the "also eligible" list shall be determined by lot.

40.2. If the owner of a horse on the "also eligible" list is

not given the opportunity of starting his or her horse because of insufficient "scratches", the name of that horse shall be placed on the preferred list. No owner's horse shall be placed on the preferred list if the owner did not accept when presented the opportunity of starting. However, when a substitute race or extra race is used, all horses entering in the races and not given the opportunity of starting shall be placed on the preferred list. In case of an "entry," the preferred horse only shall be given a place on the preferred list unless the second choice of an entry is included in another division of a divided race and does not gain a position in the race (may not exclude a single interest), the horse then shall be given a place on the preferred list.

40.3. Any horse which has drawn or obtained a position in a race and enters again on the next day that entries are taken shall be termed an "in-today" horse and if the race in which the horse is entered overfills, the horse shall be given no consideration whatsoever with the exception of participation in a stakes race. If a horse is on the "also eligible" list and is selected in a race the next day, the horse is an automatic scratch or elimination from the "eligible" list the first day.

§178-1-41. Preferred List.

41.1. A copy of the preferred list will be posted or displayed each afternoon and any claim of error must be made by scratch or elimination time of the following day. Any claim of error that is made within the prescribed time will be recognized by the stewards.

41.2. In entering horses on the preferred list, a claim of preference must be made at time of entry and noted on the entry, or the preference shall be foregone with no claim of error being considered by the stewards when the person making the claim has signed an entry not marked in keeping with this rule.

§178-1-42. Penalties and Allowances.

42.1. Penalties and allowances are not cumulative, unless designated by the conditions of the race, and they shall take effect at the time of starting with the exception that in overnight events, a horse shall have only the allowance to which it was entitled at the time of entry.

42.2. Penalties are mandatory. Allowances are optional as to all or any part thereof, and in overnight events, allowances must be claimed at the time of entry.

42.3. No horse shall receive allowance of weight nor be relieved from extra weight for having lost in one or more races. However, this rule shall not prohibit maiden allowance or allowances to horses that have not won a race within a specified period or a race of a specified value.

42.4. Failure to claim a weight allowance by oversight or omission is not cause of disqualification. Claims of weight allowance to which a horse is not entitled shall not disqualify the horse unless the incorrect weight is carried in the race. However, a fine may be imposed upon the person claiming allowance to which his or her horse is not entitled.

42.5. Eligibility, penalties, and allowances of weight for all races will be determined after considering the reports, records, and statistics published by the Daily Racing Form and other racing statistical publications. However, responsibility for weight carried and eligibilities still remain with the owner and trainer.

42.6. No horse shall incur a weight penalty for order of finish from which the horse is disqualified, but a horse finishing position in a race through the disqualification of another horse shall take the weight penalties of that position. No such position shall disqualify a horse for a race which has already been run.

42.7. When a race is in dispute, both the horse that finished first and any other horse involved in the dispute shall be subject to all penalties attached to the winner of that race until the matter is decided.

42.8. Races described to be run under "Scale of Weights or Weight for Age" shall be run under the weights as provided for in the scale of weight's chart appearing in this rule.

42.9. It shall be within the power of the association's racing secretary to schedule races either above or below scale as he or she determines provided that his or her weights comply with the minimum weight rule.

§178-1-43. Occupational Permits and Permit holders.

43.1. Any person who is involved in or employed by those involved in racing or operating a licensed racetrack or those operating concessions for or under authority from any association, must have a valid occupational permit issued by the Racing Commission unless otherwise specifically exempt.

43.2. If a dispute should arise between a licensee and an occupational permit holder, at any licensed racetrack and in the event the occupational permit holders or licensee desire to terminate their activities under an existing license or occupational permit, then the licensee or occupational permit holder shall give seven (7) days' notice, in writing, of their intention to terminate all activities under their existing license or occupational permit to the Racing Commission. The Racing Commission may, upon request from either party, within the aforesaid seven (7) day period, conduct hearings in an attempt to arbitrate and settle any disputes by and between the parties. In the event either the licensee or occupational permit holder fails to abide by this rule, the Racing Commission may suspend the licensee and/or occupational permit holder. All hearings shall be governed by West Virginia Procedural Regulations, 178 C.S.R 4 (1991), Dispute Resolution Procedures.

43.3. An applicant for an occupational permit may be called upon to submit satisfactory evidence of financial responsibility, and after the occupational permit has been issued. The applicant must maintain a record of financial responsibility during the period for which an occupational permit is issued.

43.4. The Racing Commission may refuse to issue or renew an occupational permit, or may suspend or revoke an occupational permit issued pursuant to this rule, if the Racing Commission finds that the applicant, or any person who is an agent, employee or associate of the applicant has been convicted of a crime in any jurisdiction, or is or has been associating with any person who has or persons who have been convicted of a crime or crimes in any jurisdiction, or is consorting with or has consorted or associated with bookmakers, touts or persons of similar pursuits, or has himself or herself engaged in similar pursuits, or is financially irresponsible, or has been guilty of or attempted any fraud or misrepresentation in connection with racing, breeding or otherwise, or has violated or attempted to violate any law with respect to racing in any jurisdiction or any rule or order of the Racing Commission, or adopted by the Racing Commission, or has been guilty of or engaged in similar, related or like practice.

43.5. All applications for occupational permits shall be filed with the Racing Commission license clerk in the Racing Commission office. The application will be submitted to the stewards who shall issue the permit, or hold the application for further investigation, or refer it to the Racing Commission for final action. All stewards shall review and sign all occupational permit applications.

43.6. The association shall provide equipment for

fingerprinting and photographing representatives of all occupational permit holders and shall provide the necessary equipment to coat the occupational permit in plastic with the picture of the applicant.

43.7. The following fees shall be charged by the Racing Commission for occupational permits issued effective for calendar year 2001 and thereafter:

Stable Name --	20.00
Corporation --	20.00
Vendor --	20.00
Owner - with registration of colors --	15.00
Owner-Trainer (same person) --	30.00
Trainer --	15.00
Assistant Trainer --	15.00
Jockey --	15.00
Veterinarian --	15.00
Apprentice Jockey --	10.00
Plater --	10.00
Authorized Agent (each person) --	10.00
Jockey Agent (limit 2 jockeys) each --	10.00
Mutuel Employee --	10.00
Photographers, totalizator, film patrol --	10.00
Stable Foreman --	10.00
Officials - Steward -	15.00
Starter-	15.00
Racing Secretary --	15.00
Minor Officials -	
Paddock Judge --	10.00
Horsemen's Bookkeeper --	10.00
Clerk of Scales --	10.00
Timer --	10.00
Assistant Racing Secretary --	15.00
Outrider --	10.00
Assistant Starter --	10.00
Stable Hand -	10.00
Concession --	10.00
Maintenance --	10.00
Parking, etc. Valet --	10.00
Exercise rider --	10.00
Groom --	10.00
Vet's Assistant --	10.00
Admission --	10.00
Pony Riders -	10.00

Security --	10.00
Video Lottery Employees -	10.00
Others not specified -	10.00

43.8. Every person who is suspended, or whose occupational permit is revoked, or to whom an occupational permit is denied by any racing board or commission must apply to and be reinstated by the Board or Commission of the state in which the original ruling was made before being eligible to hold an occupational permit in any capacity issued by the Racing Commission.

43.9. All occupational permit holders shall visibly display their card at all times in restricted areas and shall be held responsible for its safekeeping. No occupational permit shall be transferable and no duplicate cards shall be issued except upon payment of a fee of five dollars (\$5.00).

43.10. Any occupational permit holder who allows another to use his or her occupational permit card or badge or any person who uses the occupational permit card or badge of another person for the purpose of transferring any of the benefits pertaining thereto may be suspended, fined, or both.

43.11. When the denial of an occupational permit has been ordered by the Racing Commission, the executive secretary of the Racing Commission shall report the particulars to the applicant and shall further report the matter to the Association of Racing Commissioners International, Inc., and give detailed reasons for the denial.

43.12. A trainer or jockey may be given permission by the stewards to pursue his or her vocation pending action upon his or her application. An owner may race his or her horses upon issuance of a temporary occupational permit. A jockey, trainer, owner, who has been suspended and subsequently reinstated after the expiration of his or her occupational permit shall not be permitted to pursue his or her vocation until a new occupational permit has been granted.

43.13. Every occupational permit shall be for not more than one (1) year and shall expire on December 31 of each year.

43.14. The Racing Commission may deny or revoke an occupational permit to any person who shall have been refused an occupational permit by any other racing jurisdiction when the racing jurisdiction of each other state extends to the Racing Commission of West

Virginia reciprocal courtesy to maintain the disciplinary control. The Racing Commission may deny or revoke any occupational permit when the holder has violated this rule and regulations of the Racing Commission or has falsified his or her application for the occupational permit.

43.15. The responsibility of obtaining an occupational permit for an employee rests with the employer. Employment of an individual without reporting the employment to the stewards and immediately obtaining an occupational permit for the employee may be cause for fine, suspension or both.

43.16. No application for an occupational permit will be considered or an occupational permit granted to anyone under sixteen (16) years of age.

43.17. The stewards or the Racing Commission may impose a condition or conditions on the issuance of an occupational permit as they deem necessary in their sole discretion to protect the best interest and integrity of racing. The stewards or Racing Commission may deny the occupational permit if a conflict of interest exists or could exist as a result of the issuance of an occupational permit.

43.18. Any person under suspension by any racing jurisdiction in any country shall remain under suspension in this State until reinstated by the original racing jurisdiction.

43.19. It shall be the responsibility of the person mounted on a horse to wear the approved safety equipment. Any person who is mounted on a horse or stable pony on association grounds must wear at all times an approved safety helmet that meets at least the minimum standards as defined by the American Society for Testing and Materials (ASTM). And must wear a safety vest that is designed to provide shock absorbing protection to the upper body of at least a rating of five (5) as defined by the British Equestrian Trade Association (BETA).

§178-1-44. Tip Sheet Vendor

The following conditions must be observed in obtaining an occupational permit as a tip sheet vendor:

44.1. Any family, corporation, partnership, or sole proprietorship, or any other business entity or any employees thereof may publish no more than one (1) version of a tip sheet for use at anyone (1) track on any given race day. There is no limit

on the number of copies of the one (1) version that may be produced and sold.

44.2. To ensure fair conditions for the wagering public, a tip sheet vendor may not use the same facilities to produce a tip sheet that is used by another tip sheet vendor at the same track.

44.3. All tip sheet vendor applicants must meet the conditions set forth to the full satisfaction of the Racing Commission steward.

§178-1-45. Jockeys and Apprentice Jockeys.

45.1. Each jockey and apprentice jockey must obtain an occupational permit from the Racing Commission and no occupational permit shall be issued to any jockey or apprentice jockey under sixteen (16) years of age.

45.2. By permission of the stewards a temporary occupational permit may be granted for the riding of ten(10) or more races and, if approved by the stewards after having consulted with the representatives of the jockeys, the temporary occupational permit may be replaced with an occupational permit.

45.3. No jockey shall be the owner of any race horse.

45.4. A jockey shall not compete in any race against a horse which is owned or trained by the jockey's spouse.

45.5. There shall be no prohibition against male or female jockeys who are husband and wife from riding separate entries in the same race.

45.6. A jockey shall not ride or agree to ride in any race without the consent of the owner to whom he or she is under contract.

45.7. All jockeys shall faithfully fulfill all engagements in respect to racing.

45.8. A jockey may not ride in any race against a horse of his or her contract employer unless his or her mount and his or her contract employer's horse is both in the hands of the same trainer.

45.9. In riding a race, a jockey must be neat in appearance and the judgment of the stewards shall control in this regard. All jockeys must be dressed in clean jockey costume, cap, and jacket of

silk, which is satin or waterproof, with white or light breeches and top boots. In all races jockeys must wear approved safety helmets and a safety vest the weight of which shall not be included in the jockey's weight. The safety helmet shall meet at least the minimum standards as defined by the American Society for Testing and Materials (ASTM). The safety vest shall not weigh more than two (2) pounds and be designed to provide shock absorbing protection to the upper body of at least a rating of five (5), as defined by the British Equestrian Trade Association (BETA).

45.10. A jockey must wear the colors of the owner or owners of the horse he or she is riding (except by special permission or orders from the stewards) and wear a number on the saddle cloth corresponding to the number of the horse as exhibited in the official program.

45.11. A jockey shall wear a number on his or her right arm and this number and the saddle cloth number shall correspond to the number of the horse in the official program.

45.12. Every jockey who is to ride shall report and weigh out at the appointed time unless excused by the stewards. Every jockey who has an engagement to ride in a stake race must report into the jockey room no later than one (1) hour before post time of that race. Jockeys shall not leave the jockey room except to view the races from a point approved by the stewards or to ride in a race unless by permission granted by the stewards.

45.13. All jockeys must pass a physical examination that is administered by a physician of the jockey's choice once a year before being permitted to ride. The stewards may require that any jockey be reexamined and may refuse to allow any jockey to ride until he or she successfully passes an examination. If a jockey has previously passed an examination prior to his or her appearance at a racetrack in this State, he or she must present a physical fitness card signed by the examining physician that shows the date upon which the examination was made.

45.14. No jockey shall make a wager on any race nor accept the promise or token of any wager with respect to the race in which he or she is riding except through or from the owner or trainer of the horse he or she rides and then only on that horse.

45.15. Jockeys' riding fees must be paid to the horsemen's bookkeeper.

45.15.1. If any owner or trainer engages two (2) or more

jockeys for the same race, he or she shall pay the losing fee for each engaged jockey not riding in the race as well as the proper fee to the jockey who does ride.

45.16. A jockey's fee shall be considered earned when the jockey is weighed out by the clerk of scales. The fee shall not be considered earned if the jockey, of his or her own free will, takes himself or herself off his or her horse when injury to the horse or rider is not involved. Any conditions or considerations not covered by this rule shall be at the discretion of the stewards.

45.17. In a dead heat, the jockeys involved shall divide equally the sum total of the fees they would have received individually had one beaten the other or others. Likewise, the owners of the horses involved shall pay their equal share.

45.18. A jockey who is serving a suspension of ten (10) days or less will be permitted to ride in a designated race during the suspension if the following;

45.18.1. race has been specified as a designated race by the association's racing secretary before the inception of the race meeting at the association; or

45.18.2. race has been approved as a designated race by the stewards officiating at the meeting; and

45.18.3. jockey is named not later than at the time set for the close of entries for the race, and

45.18.4. jockey agrees to serve an additional day of suspension in place of the day on which the jockey rides in a designated race.

45.18.5. Reciprocity of this rule will apply only to those states which have adopted the designated race rule.

45.19. The suspension of a jockey for an offense not involving fraud shall begin on the second day after the ruling, unless otherwise ordered by the stewards. A suspension for fraud shall begin immediately after the ruling.

45.20. A jockey temporarily suspended may be permitted to exercise or gallop horses until the racetrack closes for the morning.

45.21. A forfeiture must be paid by the jockey himself or

herself and any other person paying the forfeiture shall be subject to punishment.

45.22. Every jockey may have no more than one (1) agent. All engagements to ride, other than those for his or her contract employer, shall be made by him or her or his or her agent. The one making the engagements shall be held responsible for the proper maintenance of the engagement book.

45.23. No jockey shall have an attendant other than those provided by the association. If a jockey cannot find an available attendant, one will be assigned by the clerk of scales. A jockey may care for his or her own equipment.

45.24. Employers retaining the same jockey have precedence according to priority of the retainers as specified in the contracts.

45.25. Approved jockeys' fee: (See table "45.25. Approved jockeys' fee" at the end of this rule)

45.26. Jockey apprentices must obtain an occupational permit from the Racing Commission and shall be bound by all of the rules for jockeys, except as the rules may be in conflict with the following specific rules for apprentices.

45.27. Apprentice contracts and apprentice certificates entered into in the State of West Virginia must be made on forms approved by the Racing Commission, and a duplicate original copy along with a satisfactory record of birth shall be on file with the Racing Commission.

45.28. The original apprentice jockey contract shall be kept in full force and effect throughout its contract period. Any and all amendments to that contract must be added to or attached to the copies in possession of the parties with a copy of the amendments sent to the Racing Commission where the original contract is filed.

45.29. A copy of all apprentice contracts, wherever entered into, must be approved by the stewards and filed with the Racing Commission. A satisfactory record of birth must accompany the apprentice contract at all times.

45.30. If an apprentice contract is transferred, that transfer must be approved by the stewards and registered with the Racing Commission by both the transferer and the transferee.

45.31. No person shall be allowed to enter into a contract in West Virginia with an apprentice jockey unless he or she is the owner or trainer of a stable of horses as would, in the opinion of the stewards, warrant his or her employment of an apprentice.

45.32. An application for an occupational permit as apprentice jockey shall be accompanied by (a) an original, a notarized or photostatic copy of his or her agreement with his or her contract employer; (b) written proof of at least one (1) year of service with a racing stable; (c) a certificate of proficiency from the starter; (d) a birth certificate or satisfactory evidence of the date of birth.

45.33. All engagements for an apprentice jockey to ride, other than those for his or her contract employer shall be made by himself or herself, his or her agent, or his or her contract employer, who may act as his or her agent without an occupational permit. However, the one making the engagements shall be held responsible for the proper maintenance of the engagement book.

45.33.1. Any person sixteen (16) years of age or older who has not been issued an occupational permit as a jockey in any country, who has, of his or her own free will while under the age of eighteen (18) with the written consent of his or her parents or guardian meets the eligibility requirements may be granted an apprentice certificate or obligate himself or herself by contract to an owner or trainer for a term of not less than three (3) nor more than five (5) years (subject to written extension if made for less than five (5) years) by written contract approved by and filed with the Racing Commission. A duly certified apprentice jockey may claim the following weight allowances in all overnight races, except stakes and handicaps:

45.33.1.1. Ten (10) pounds allowance beginning with the first mount and continuing until he or she has ridden five (5) winners,

45.33.1.2. A seven (7) pounds allowance until the apprentice has ridden an additional thirty-five (35) winners; and

45.33.1.3. If an apprentice has ridden a total of 40 winners prior to the end of a period of one (1) year from the date of riding his or her fifth winner, he or she shall have an allowance of five (5) pounds until the end of that year.

45.33.1.4. If after one (1) year from the date of the fifth winning mount, the apprentice jockey has not ridden forty (40)

winners, the applicable weight allowance shall continue for one more year or until the fortieth (40) winner, whichever comes first. But in no event may a weight allowance be claimed for more than two (2) years from the date of the fifth winning mount, unless an extension has been granted pursuant to this rule.

45.33.1.5. After the completion of conditions previously set forth, for one (1) year he or she may claim three (3) pounds when riding horses owned or trained by his or her original contract employer his or her contract has not been transferred or sold since he or she rode his or her first winner.

45.33.1.6. The holder of the contract at the time the apprentice rides his or her first winner shall be considered the original contract employer.

45.34. The Racing Commission shall take jurisdiction of an application for extension of apprentice allowance in cases where personal injuries in the conduct of his or her duty and restrictions on racing occurred at tracks licensed by the Racing Commission.

45.35. Extension of Weight Allowance: The Racing Commission may extend the weight allowance of an apprentice jockey when, in the discretion of the Racing Commission, an apprentice jockey cannot to continue riding due to:

- 45.35.1. physical disablement or illness;
- 45.35.2. military service;
- 45.35.3. attendance in an institution of secondary or higher education;
- 45.35.4. restriction on racing;
- 45.35.5. other valid reasons.

45.36. To qualify for an extension an apprentice jockey shall have been rendered unable to ride for a period of not less than seven (7) consecutive days during the period in which he or she was entitled to an apprentice allowance. Under exceptional circumstances, total days lost collectively will be given consideration.

45.37. The Racing Commission currently licensing the apprentice jockey shall have the authority to grant an extension to an eligible applicant, but only after the apprentice has produced documentation verifying time lost as defined by this rule.

45.37.1. An apprentice may petition one of the jurisdictions in which he or she is issued an occupational permit and ride for an

extension of the time for claiming apprentice weight allowances. The apprentice shall be bound by the decision of the jurisdiction so petitioned.

45.38. Apprentice allowance must be claimed at time of entry and shall not be waived except by consent of the stewards.

45.39. No race, unless reported in the Daily Racing Form or an equivalent foreign publication, shall be considered in determining a jockey's right to the apprentice allowance.

45.40. An occupational permit holder apprentice who loses his or her apprentice allowance for any reason shall obtain a jockey occupational permit before being permitted to ride again.

§178-1-46. Jockey Agents.

46.1. Each jockey agent must obtain an occupational permit from the Racing Commission.

46.2. Engagement slips shall be used and shall determine all priorities.

46.3. Signatures must be affixed by both owner, trainer and jockey or his or her agent.

46.4. The stewards may permit an applicant to act pending decision on his or her application for an occupational permit.

46.5. No jockey agent may handle at the same time more than two (2) jockeys or one (1) apprentice and one (1) jockey, nor shall he or she make or assist in the making of any engagement for any jockey other than those for whom he or she holds an occupational permit to represent.

46.6. If any jockey agent gives up the making of engagements for any jockey, he or she shall immediately notify the stewards, the Racing Commission and the association's racing secretary. He or she shall at the same time turn over to the stewards a list of any unfilled engagements he or she may have made for that jockey.

46.7. Jockey agents shall not be allowed in the paddock or on the race track at any time, except by special permission from the stewards.

46.8. A jockey agent shall not give to anyone, directly or indirectly, any information or advice pertaining to a race or engage

in the practice commonly known as "touting" for the purpose of influencing any person, or that would tend to do so, in the making of a wager on the result of any race.

46.9. No person other than a jockey agent or contract employer shall make engagements for an apprentice jockey or jockey. However, a jockey not represented by an agent shall make engagement.

46.10. Jockey agents will be called upon to explain rival claims for any mount or for any rider. An inability to satisfy the stewards that the rival claim arose through honest, and bona fide error shall be considered a falsification of records.

46.11. Conflicting claims for the services of a jockey shall be decided by the stewards and "first call" shall have priority.

46.12. Any agent who falsifies his or her record shall be fined and/or suspended by the stewards.

46.13. A jockey agent may not hold an occupational permit in any other capacity as long as he or she holds an agent's occupational permit unless the additional occupational permit is approved by the Racing Commission. A jockey agent's spouse shall not be the owner or trainer of any race horse nor shall they have any interest in the ownership of one.

46.14. An applicant for a jockey agent occupational permit, who has not been previously issued, an occupational permit in any State, must have the written statement of two (2) reputable persons to the effect that the applicant is personally known to them and that he or she is a person of good reputation and capable of satisfactory performance of the vocation he or she seeks to follow. The applicant shall be given a thorough written and/or oral examination by the stewards.

46.15. If, for good reason, a jockey agent is short of his or her permissible quota of jockeys and wishes to take on the task of making engagements for a jockey not named in his or her occupational permit, he or she must obtain permission from the stewards before making these engagements.

§178-1-47. Naming of Riders.

47.1. Jockeys shall be named no later than scratch time of the day of the race.

47.2. Any subsequent change of a jockey must be sanctioned by

the stewards and must be promptly and publicly displayed and announced.

47.3. Any jockey, having given a call personally or through his or her agent, who fails to fulfill such engagement may not accept another mount or be assigned by the stewards to another mount in that race.

§178-1-48. Blacksmiths.

48.1. An applicant for a Plater occupational permit who has not been previously issued an occupational permit in any State must have a written statement of two (2) reputable persons to the effect that the applicant is personally known to them stating that he or she is a person of good reputation and capable of performance of the vocation he or she seeks to follow. The applicant shall be tested by a Board consisting of a veterinarian, trainer and a blacksmith holding an occupational permit appointed by the Board of Stewards. The applicant shall be tested as follows:

48.1.1. an applicant will submit to written or oral testing regarding shoes and shoeing.

48.1.2. applicants will shoe a horse with racing plates.

48.1.3. applicants will fit a steel stock shoe to a pattern provided by the committee, for application of a bar to be added.

48.2. The applicant must have his or her own tools necessary to complete the examination which shall not exceed one (1) hour. If the applicant fails the test, he or she may not be reexamined for a period of six (6) months.

§178-1-49. Owners - Trainers.

49.1. Each owner must obtain an occupational permit from the Racing Commission.

49.2. All owners and trainers of horses and their stable employees are subject to the laws of West Virginia and the rules promulgated by its Racing Commission immediately upon acceptance and occupancy of stabling accommodations from an association or upon making entry to run on its racetrack. The owners, trainers and stable employees shall abide by the laws and rules and accept the decision of the stewards on all questions, subject to their right of appeal to the Racing Commission.

49.3. If any owner changes trainers, he or she must notify the stewards and obtain a transfer certificate.

49.4. No owner shall employ a jockey for the purpose of preventing him or her from riding in any race.

49.5. No owner shall accept, directly or indirectly, any bribe, gift or gratuity in any form which might influence the result of any race.

49.6. An owner or his or her trainer shall ascertain that a report is made promptly to the association's racing secretary or to the Racing Commission veterinarian of all sickness of his or her horses.

49.7. The personnel of every stable and changes shall be registered by the owner and/or trainer with the association on whose racetrack their horses are racing or stabled and each shall hold an occupational permit issued by the Racing Commission.

§178-1-50. Authorized agents.

50.1. Each authorized agent must obtain an occupational permit from the Racing Commission.

50.2. Application for an occupational permit must be filed for each owner represented.

50.3. A written instrument signed by the owner must accompany the application and shall clearly indicate among the delegated powers whether or not that agent is empowered to collect money from the association. The owner's signature must be acknowledged before a notary.

50.4. If the written instrument is a power of attorney, it shall be filed permanently with the Racing Commission and attached to the regular application form.

50.5. Any changes must be in writing and filed with the Racing Commission.

50.6. The term of the occupational permit shall expire December 31 of each year, unless the agent's appointment is revoked by the owner of the occupational permit or revoked by the Racing Commission prior thereto.

50.7. Owners' revocation must be in writing, sworn to before a

notary public, and filed with the Racing Commission.

§178-1-51. Licensing Requirements for Multiple Owners.

51.1. If the legal owner of any horse is a partnership, corporation, limited liability company, syndicate or other association or entity, each shareholder, member or partner shall be licensed as required in this rule.

51.2. Each partnership, corporation, limited liability company, syndicate or other association or entity shall disclose to the Racing Commission all owners unless otherwise directed by the Racing Commission.

51.3. Application for joint ownership shall include a designation of a managing owner, a business address, percentage of each owner's beneficial interest and any other information as the Racing Commission may specify. Receipt of any correspondence, notice or order at such address shall constitute official notice to all persons involved in the ownership of such horse.

51.4. The written appointment of a managing owner or authorized agent shall be filed with the Racing Commission.

§178-1-52. Partnerships.

52.1. Each and every partner, including husband and wife, shall obtain an owner's occupational permit to allow the partnership to function on the racetracks of West Virginia and complete proper partnership forms.

52.2. An authorized agent shall be appointed to represent a partnership in all matters and only he or she shall withdraw money or sign claims for that partnership. A notarized instrument shall be signed by all members of a partnership in the appointment of an authorized agent.

52.3. Partnership papers shall, among other things, set forth the following:

52.3.1. the name and address of every person having any interest in the horse or horses involved.

52.3.2. the relative proportions of such interests;

52.3.3. to whom the winnings are payable;

52.3.4. in whose name the horse or horses shall run;

52.3.5. with whom the power of entry and declaration rests;

52.3.6. the terms of any contingency, lease or any other arrangement.

52.4. All partnership papers shall be signed by all parties or by their authorized agent.

52.5. In case of an emergency, authority to sign declarations of partnerships may be given to the Racing Commission by a telegram or facsimile which is to be promptly confirmed in writing by mail.

52.6. The part owner of any horse cannot assign his or her share, or any part of it, without the written consent of the other partners. The consent is to be lodged with the Racing Commission and the association's racing secretary.

52.7. An alteration in a recorded partnership's registration, to be effective, shall be reported in writing to the Racing Commission and signed by all partners.

52.8. All parties to a partnership shall be jointly and severally liable for all stakes, forfeits, and other obligations.

52.9. For claiming purposes, if a horse is owned by more than one (1) owner, the total ownership shall be considered a single entity.

§178-1-53. Stable Names.

53.1. All stable names shall be cleared with the office of the Association of Racing Commissioners, International, Inc. and shall be duly registered with the Racing Commission. A stable name shall be plainly distinguishable from that of another duly registered as a stable name when appearing on the program.

53.1.1. All names not revealing the actual identity or identities of the owner or owners shall be considered a "stable name".

53.1.2. In applying to race under a stable name, the applicant shall disclose the identity or the identities behind the stable name. If a partnership is involved in the identity behind a stable name, the rules covering partnerships shall be complied with, in detail.

53.1.3. Changes in identities shall be reported immediately to and be approved by the Racing Commission.

53.1.4. A person cannot register more than one stable name at the same time, nor can he or she use his or her real name for racing purposes, as long as he or she has a registered stable name.

53.1.5. Any person who has been registered under a stable name may, at any time, cancel it after he or she has given written, notarized notice to the Racing Commission.

53.1.6. A person cannot register as his or her stable name, one which has been registered by any other person with an association conducting a recognized meeting.

53.1.7. A person may not register as his or her stable name, one which is the real name of any owner of race horses, nor one which is the real or stable name of any prominent person now owning race horses.

53.1.8. A trainer, who holds an occupational permit as an owner or part owner, may use a stable name as owner or part owner, provided that he or she is the trainer for the stable name owner. However, no trainer may obtain an occupational permit as a trainer other than in his or her legal name.

53.1.9. A stable name shall be plainly distinguishable from that of another duly registered as a stable name. When appearing on the program, the stable name must be accompanied by the legal name of the owner. If the stable name has more than one owner, the legal name of an owner must appear and be followed by the term "et al".

53.1.10. A corporate name shall be considered as a stable name for the purpose of these rules, but the Racing Commission reserves the right to refuse any corporation the privileges of registering a stable name or racing as a corporation or other business entities.

53.1.11. If more than one person race with a stable name registered as the owner, an authorized agent shall be appointed and he or she shall transact all business.

§178-1-54. Trainers.

54.1. Each trainer must obtain an occupational permit from the Racing Commission and list on the occupational permit application

all the names of owners or part owners of all horses trained by him or her.

54.2. No owner or trainer shall harbor on the grounds of an association, engage, or retain in his or her employ any person not holding an occupational permit.

54.3. A trainer holding an occupational permit may represent the owner in the matter of entries, declarations, and the employment of jockeys. The trainer shall not be allowed to withdraw any money from the horsemen's bookkeeper, either in his or her own name or that of an owner, nor may he or she contract obligations against the account of any owner or part owner unless he or she is the authorized agent of the owner or part owner and has an occupational permit issued by the Racing Commission.

54.4. A trainer shall have his or her horse in the paddock at the time appointed.

54.5. If, for any reason, the trainer of a horse is not or cannot be present at the time of collection of urine, blood, or other samples, it shall be deemed by the Racing Commission that the person actually in custody of the horse is duly authorized to witness the taking and sealing of the specimen and has the trainer's authority to sign as witness to such action.

54.6. A trainer shall attend his or her horse in the paddock and shall be present to supervise his or her saddling, unless he or she has obtained the permission of a steward to send another occupational permit holder trainer as a substitute. He or she shall also be present following the running of a race to attend his or her horse or cause an occupational permit holder employee to be present for that purpose.

54.7. Each trainer shall register all the horses in his or her care with the association's racing secretary giving the name, age, sex, breeding, and ownership of each. Any horse stabled on the grounds of the association or under the jurisdiction of the association without having been registered, occupying a stall not assigned for him or her unless by special permission, may be cause for disciplinary action.

54.8. Any alteration in the sex of a horse must be reported and noted by the trainer to the association's racing secretary or the identifier immediately and this information shall be recorded on the foal certificate.

54.9. Each trainer shall register with the association's racing secretary and the security department every person under his or her supervision or employment. He or she shall also be responsible for the licensing of each employee and not harbor, engage, or have in his or her charge any person or persons not holding an occupational permit.

54.10. A trainer shall not have in his or her charge nor under his or her supervision any horse owned, in whole or in part, by a disqualified person.

54.11. No trainer shall accept, directly or indirectly, any bribe, gift or gratuity in any form which might influence the result of any race.

54.12. No trainer shall move or permit to be moved any horse or horses in his or her care from the grounds of an association without permission from the association's racing secretary or the stewards.

54.13. No trainer shall employ a jockey for the purpose of preventing him or her from riding in any race.

54.14. The trainer shall be responsible as an absolute insurer of the condition of the horses he or she enters regardless of any act of a third party as further set forth in this rule.

54.15. An applicant for a trainer's occupational permit who has not previously held a trainer's occupational permit in any state shall have the written statement of two (2) reputable persons to the effect that the applicant is personally known to them and that he or she is a person of good reputation and character. The applicant must have held an occupational permit in the state of West Virginia for three (3) consecutive years or four (4) consecutive years in another state. The applicant shall be given a thorough written and/or oral examination by the stewards and any other examination as deemed necessary by the stewards.

§178-1-55. Claiming.

55.1. In claiming races any horse is subject to claim or purchase for its entered price by any occupational permit holder owner in good standing, or by the holder of a certificate of eligibility to claim. The procedure for obtaining a certificate to claim shall be as follows:

55.1.1. An applicant shall, five (5) days before entering a claim, submit an application for the owner's original occupational

permit and be accompanied by:

55.1.1.1. a financial statement;

55.1.1.2. the name of an occupational permit holder trainer or person eligible to be issued an occupational permit as a trainer, who will assume care and responsibility for the horse claimed; and

55.1.1.3. the requisite fee for an owner's occupational permit.

55.1.2. This certificate shall be valid for the remainder of the calendar year.

55.2. No one may claim more than one horse from any one race.

55.2.1. No trainer, even though he or she is an owner and qualified under the rules to claim, may submit a claim in the same race in which the owner of horses trained by him or her has submitted a claim. If this act inadvertently occurs, the claim made by the trainer shall be declared void.

55.2.2. No authorized agent, although representing more than one owner shall submit more than one claim in any one race.

55.2.3. When a stable consists of horses owned by more than one owner, trained by the same trainer, not more than one claim may be entered on behalf of the stable in any one race. In case such an act inadvertently occurs, the owners shall compete by lot for the right of claim.

55.2.4. When a stable consists of horses owned by more than one owner and trained by the same trainer, those owners will not be eligible to claim from that trainer's stable.

55.3. Any horse claimed shall not be sold or transferred, wholly or in part thereof, to anyone for sixty (60) days thereafter, except in another claiming race. The horse shall not remain in the same barn or under the control or management of its former owner or trainer for a like period, unless reclaimed, nor shall it race in any other racing jurisdiction for a period of sixty (60) days.

55.4. The claiming price of each horse in a claiming race shall be printed on the program, and all claims for that horse shall be for the amount designated, plus sales tax. If more than one claim is filed for the same horse, the disposition of the horse shall be

determined by lot under the direction of one or more of the stewards or one deputized to act for the stewards.

55.5. All claims must be made in writing on forms and in envelopes approved by the Racing Commission. Both forms and envelopes must be complete and accurate. Otherwise, the claim will be invalid. The envelope shall have no identification marked on it other than the number of the race for which the claim is being made. The envelopes must be sealed, time stamped, and deposited in a locked box provided for this purpose. No money shall accompany the claim. Each person desiring to make a claim must first deposit with the horsemen's bookkeeper the whole amount of the claim in cash, plus applicable sales tax, unless at the time of depositing the claim, he or she shall have the amount to his or her credit and unencumbered with the horsemen's bookkeeper. The spelling of a horse's name on the official program on the day of claiming may be considered to be the accurate information for the purpose of claiming. The claimant of a horse shall be solely responsible for determining the sex of the horse claimed. When a claim has been filed, it is irrevocable and at the responsibility of the claimant.

55.6. All claims must be deposited in the claiming box with the horsemen's bookkeeper at least ten (10) minutes before post time of the race with respect to which the claim is made, and no official of that association shall give any information as to the filing of claims therein until after the race has been run. All claims shall be reviewed for approval by the stewards or their designee.

55.7. A horse claimed shall not be delivered by the original owner to the successful claimant until authorization shall be given by the stewards. Every horse claimed shall run in the interest and for the account of the owner who entered it in the race, but title to the claimed horse shall be vested in the successful claimant from the time the horse becomes a "Starter". The successful claimant shall become the owner of the horse, whether it is alive or dead, sound, or unsound, or injured during the race or after the race.

55.8. Any person making a claim for a horse in any claiming race shall sign an affidavit which shall be part of the claim blank, certifying that he or she is claiming the horse for his or her own account or as an authorized agent and not for any other person. Any person making an affidavit falsely shall be immediately suspended and his or her case referred to the Racing Commission for further action.

55.9. No person shall refuse to deliver to the person or persons entitled thereto under this rule a horse claimed from a

claiming race. The horse claimed shall be prevented from racing along with all other horses owned or trained by that person until delivery is made.

55.10. No person shall offer, or enter into an agreement, to claim or attempt to prevent another person from claiming, any horse in a claiming race. No person shall attempt by intimidation to prevent anyone from running a horse in any race for which it is entered. No owner or trainer running horses in any claiming race shall collude or make any agreement for the protection of each other's horses.

55.11. No person or persons shall start or allow to be started in a claiming race a horse against which any claim is held, either as a mortgage, bill of sale, or lien of any kind, unless before starting the horse a written consent of the holder of the claim is on file with the horsemen's bookkeeper. A person may not claim ownership in a horse after the horse has run in a claiming race in the name of another person, who, at the time of the race, had peaceable and undisputed possession of the horse.

55.12. Any horse that has been claimed shall, after the race has been run, be taken to the paddock for delivery to the claimant. The claimant must present written authorization for the claim from the stewards or their designee: Provided, however, that if that horse is required to go to the test barn the delivery to the claimant will take place in the test barn after the sample is taken. The claimant may send a designee along with the horse as he leaves the track and goes to the test barn.

55.13. If a horse has been claimed, the trainer or his or her designee must accompany his or her horse to the test barn if that horse shall go to the test barn and remain in the test barn until the horse has been released by the Racing Commission veterinarian or his or her agent. The trainer or his or her designee must accompany the horse to the test barn if the horse has been designated to go to the test barn even though delivery has been made in accordance with this section.

55.14. All horses claimed in other states and racing in West Virginia shall be subject to the conditions of the claiming rule in the state where the claim was made.

55.15. The stewards shall be sole judge of the quality of the horses in the stable of the claimant, and shall decide when the spirit and the intent of the rule are being violated. They may, at their discretion, declare any claim void.

§178-1-56. Postponement and Cancellation of Races.

56.1. If the whole or a part of a racing program is abandoned, any affected race must be canceled.

56.2. If the whole or a part of a racing program is abandoned, any affected stakes race may be canceled or postponed.

56.3. If a stakes race is canceled, all subscriptions and fees paid in connection with that race shall be refunded.

§178-1-57. Dead Heats.

57.1. When two (2) or more horses run a dead heat, the results of the dead heat are final.

57.2. The owners of the horses in a dead heat shall divide equally the purse money involved.

57.3. If a dead heat is for first place, each horse shall be considered a winner of the amount received according to the preceding rule.

57.4. When a dead heat is run for second place and an objection is made to the winner of the race, and sustained, the horses which run the dead heat for second place shall be deemed to have run a dead heat for first place.

57.5. Owners shall divide equally all moneys and other prizes and if no agreement can be reached as to which of them shall receive a cup, plate or other indivisible prize, they shall draw lots for it in the presence of one or more of the stewards.

57.6. In case of a dead heat for "win", each of the horses involved is a winner for the purpose of these rules.

§178-1-58. Paddock to Starting gate.

58.1. In a race each horse shall carry a conspicuous saddlecloth number that corresponds to his or her number on the official program. In the case of an entry, each horse making up the entry shall carry the same number (saddlecloth) with a distinguishing letter. For example, 1 - 1A. In the case of a field, the horses comprising the field shall carry an individual number, i.e., 10, 11, 12 and so on or 10, 10A, 10B, and so on.

58.2. Horses shall be in the paddock at least twenty (20)

minutes before post time unless otherwise authorized by the stewards.

58.3. Every horse must be saddled by his or her trainer in the paddock unless special permission has been granted by the stewards to saddle elsewhere.

58.4. After entering the racing strip, not more than twelve (12) minutes shall be consumed in the parade of the horses to the starting gate except in cases of unavoidable delay. After passing the grandstand once, horses will be allowed to break formation and canter, warm up, or go as they please to the starting gate unless otherwise directed by the stewards. When horses have reached the starting gate, they shall be started without unnecessary delay.

58.5. After the horses enter the racing strip, no jockey shall dismount and no horse shall be made available to the care of an attendant without the consent of the stewards or the starter. The horse must be free of all hands other than those of the jockey or assistant starter before the starter releases the barrier.

58.6. In case of an accident to a jockey or to his or her horse or equipment, the stewards or the starter may permit the jockey to dismount. The stewards may permit the horse to be cared for during the delay and may permit all jockeys to dismount, and all other horses to be cared for during the delay.

58.7. If a jockey is thrown from the horse on the way from the paddock to the starting gate, the horse shall be remounted, return to the point where the jockey was thrown and then proceed over the route of the parade to the starting gate. A horse must carry his or her assigned weight from paddock to starting gate and from starting gate to finish.

58.8. If the jockey is injured on the way to the starting gate as to require another jockey for his or her replacement, the horse shall be taken to the paddock and another jockey obtained who shall ride, over the uncompleted portion of the exact route of the parade to the starting gate.

58.9. If a horse leaves the racing strip while moving from paddock to starting gate, the horse shall return to the racing strip at the nearest practical point to that at which the horse left the racing strip. The horse shall complete his parade to the starting gate from the point at which the horse left the racing strip.

58.10. No person shall willfully delay the arrival of a horse

at the starting gate.

58.11. No person, other than the rider, starter, or assistant starter shall be permitted to strike a horse or attempt, by shouting or otherwise, to assist it in obtaining a start.

§178-1-59. Starting Gate to Finish.

59.1. A jockey shall put forth every reasonable effort and exercise the greatest diligence in riding a race. If, in the opinion of the stewards, a jockey does not put forth every reasonable effort or use proper diligence in the riding of a race, the jockey shall be subject to disciplinary action.

59.2. If a horse leaves the racing strip after the "Start", the horse shall be disqualified.

59.3. When possible, a horse may be taken to any part of the racing strip, but no horse shall cross or weave in front of other horses in such a way as to impede them or constitute or cause interference.

59.4. No horse or jockey shall willfully jostle another horse.

59.5. During a race, no jockey shall willfully strike or touch another jockey or another jockey's horse or equipment for the purpose of interfering with that horse or jockey.

59.6. No jockey shall cause his or her horse to shorten its stride unnecessarily or otherwise perform in a nonprofessional manner to create an impression of interference.

59.7. All horses shall be ridden past the finish line in every race and must carry their assigned weight from starting gate to finish.

59.8. All horses are expected to give their best effort in races in which they run. Any instruction or advice to jockeys to ride or handle their horses otherwise than for the purpose of winning are forbidden and will subject all persons giving or following such instruction to disciplinary action by the stewards and Racing Commission.

59.8. If two (2) horses run in one (1) interest in any race, each shall give his best effort. The practice of colluding to win with one or the other of the horses will not be allowed.

59.9. If a horse, during the running of a race, becomes crippled or otherwise obviously unable to finish, (broken bone or profuse bleeding or any other equally disabling condition) the horse shall be dismounted, unsaddled, and removed from the racing strip without passing the grandstand and furthermore the horse shall under no circumstances be destroyed on the racing strip or in the presence of the public unless authorized by the Racing Commission veterinarian or his or her designee.

59.9.1. If a bone is broken, the horse will remain on the racing strip until the horse ambulance arrives and removes the horse.

59.9.2. If destruction of an animal is determined to be necessary, the destruction will be accomplished by the Racing Commission veterinarian, or the designated veterinarian and only through the use of a needle.

59.9.3. A jockey will not be required to weigh in when permitted by the stewards.

59.10. During the running of the racing performance, all unauthorized persons shall be excluded from the racing strip.

§178-1-60. Illegal and Corrupt Practices.

60.1. All persons guilty of any dishonest or corrupt practices, fraudulent act, or other conduct detrimental to racing, including bookmaking, touting or selling or purchasing mutuel tickets other than through mutuel machines, committed while within or without any racing enclosure, whether an occupational permit holder or not, shall be removed from all racing grounds under the jurisdiction of the Racing Commission. It shall be the duty of the stewards and those authorized by them to exclude from all places under their jurisdiction persons who commit the offenses.

60.2. No racing official or his or her assistant, owner, trainer, jockey, agent, person having charge of or access to any race horse, or any other person shall accept or offer to accept on his or her own behalf or on behalf of another any gift or gratuity as a bribe.

60.3. No person shall give, offer, or promise, directly or indirectly, either in his or her own behalf or in behalf of another, any gift or gratuity with intent to bribe.

60.4. No person shall offer or receive money or any other

benefit for scratching or eliminating a horse from a race or for not entering a horse in a race.

60.5. No person shall conspire with any other person for the commission of a corrupt or fraudulent act or practice, or connive with any other person in any corrupt or fraudulent practice in relation to racing nor commit an act on his or her own account.

60.6. No person shall make a wager on behalf of any jockey. However, the owner or trainer of the horse the jockey is riding, may wager only on that horse.

60.7. No person shall offer or give a jockey any money or other benefit in relation to a race, unless that person is the owner or trainer of the horse being ridden in the race by that jockey.

60.8. Any action, substance, drugs, or otherwise, which may interfere with the testing procedure is forbidden.

60.9. The owner or owners of any horse or horses that are disqualified shall be denied, and shall promptly return any part of the purse, sweepstakes, or any trophy or prize. The purse and/or prizes shall be redistributed by the stewards.

60.10. No person shall improperly tamper or attempt to tamper with any horse in a way as to affect its speed in a race, nor shall any person counsel or in any way aid or abet any such tampering.

60.11. No jockey's attendant shall make a wager on any race nor shall he or she place a wager for anyone else.

60.12. No person shall make a handbook or a foreign book on the grounds of an association.

60.13. No person shall solicit for or bet with a handbook or a foreign book on the grounds of an association.

60.14. A resale of any pari-mutuel ticket from an individual to another is prohibited and the transferor and transferee shall be permanently ejected from the grounds.

60.14. Any person having been convicted of a felony or a crime involving moral turpitude within the last ten (10) years shall be denied an occupational permit and/or be excluded from the grounds of an association during the conduct of a racing meet.

60.15. No person who is of ill repute or a fugitive from

justice, or whose conduct at a race track in West Virginia, or elsewhere is or has been improper, obnoxious, unbecoming or detrimental to the best interest of racing shall enter or remain upon the premises of any licensed association conducting a race meeting under the jurisdiction of this Racing Commission, and all persons upon discovery or recognition, shall be fined, suspended or ejected from the racetrack.

60.16. No electrical or mechanical device or other expedient designed to increase or decrease the speed of a horse, (or that would tend so to do) other than the ordinary whip, shall be possessed or applied by anyone to a horse at any time on the grounds of an association during a meeting in a race or otherwise.

60.17. Any person, other than a veterinarian licensed by the Racing Commission, who gives, uses or administers any analgesics or drugs of any kind whatsoever, or who allows or permits any other person to give, or administer any analgesics, or drugs of any kind whatsoever to a horse within forty-eight (48) hours prior to the running of a horse in a race must give notice to the stewards of the use or administering of the analgesics or drugs before the running of the race. Any person failing to give notice shall have his or her occupational permit revoked.

60.18. No person other than a veterinarian issued an occupational permit by the Racing Commission shall have in his or her possession within the grounds of a race track where horses are lodged or kept which are eligible to race over a race strip any drugs, stimulants, hypodermic syringes, or hypodermic needles or similar instruments which may be used for injection.

60.19. No person, except licensed veterinarians, shall have in his or her possession within the association's grounds where horses are kept that are eligible to race the following: any drug which might affect the speed or actions of a horse, or hypodermic syringes or hypodermic needles or similar instruments which may be used for injection, or batteries, or other appliance which might affect the speed or actions of a horse.

60.19. Any horse that has been nerved at or above the fetlock ("high nerved") is prohibited from running in this state. All horses that have been nerved below the fetlock ("low nerved") shall be so designated on The Jockey Club foal certificate, and this information shall be published on the bulletin board in the association's racing secretary's office. It is the responsibility of the trainer to notify the Racing Commission veterinarian of the horse's nerved status prior to the time that the horse is entered

and provide verification from the practicing veterinarian who performed the neurectomy, if the foal papers have not been previously stamped by an official at another race track.

60.20. No occupational permit holder or other person under the jurisdiction of the Racing Commission shall subject any horse under his or her control, custody, or supervision to be subjected to or to incur any form of cruelty, mistreatment, neglect or abuse, nor shall there be administered any noxious substance to any horse or deprive any horse of necessary care, substance, shelter or veterinary care.

§178-1-61. Objections and Protests.

61.1. The stewards shall take cognizance of foul riding and may entertain reports from other racing officials of the meeting regardless of whether or not formal complaint is made. No complaint shall be considered which comes from any person other than the jockey, trainer or owner of the horse interfered with.

61.2. If a horse is disqualified for a foul under these rules, any other horse in the race owned wholly or in part by the same interest may also be disqualified.

61.4. A protest, except a protest involving fraud, may be filed only by the owner (or his or her authorized agent), trainer, or jockey of a horse engaged in the race in which the protest is made or by a racing official of the meeting.

61.5. A protest involving fraud may be made by any person.

61.6. If a claimed horse has had a posterior digital (heel nerve) neurectomy and has not complied with requirements in **Section 53.19** of this rule, the claimant shall have forty-eight (48) hours from the start of the race from which the horse was claimed to file a protest which must be supported by an affidavit made by a veterinarian holding an occupational permit and the Racing Commission veterinarian.

61.7. A protest, except for an allegation relating to incidents in the running of the race, must be made in writing, signed by the complainant and filed with the stewards before post time of the race in question.

61.8. To merit consideration, any protest over the status of an alleged maiden horse must be made in writing, signed by the complainant, and filed with the stewards before the scheduled post

time for the race in which the protested maiden horse is scheduled to participate.

61.9. A protest against a horse engaged in a race and filed with the stewards not less than sixty (60) minutes before post time shall receive immediate consideration. When there is no proof provided within thirty (30) minutes of post time that the horse is qualified to start, the horse may be disqualified from starting.

61.10. To merit consideration, a protest against the scheduled distance of a race must be made at least thirty (30) minutes before post time for that race. However, nothing in this rule shall affect the rule pertaining to races run at a wrong distance as compared with the official program.

61.11. To merit consideration, a protest against a horse based on an incident in a race must be made to the stewards before the order of finish of the horses before that race has been officially confirmed.

61.12. If a jockey wishes to protest a happening in a race, he or she must so notify the clerk of scales immediately upon his or her arrival at the scales for weighing-in. However, when the "Quick Official" is being used he or she must so notify the outrider that is equipped with a two-way radio for communication with the stewards, that he or she wishes to claim foul or put a "hold" on the race. The jockey may either claim foul or put the race on hold. The jockey shall then proceed to the clerk of scales and contact the stewards upon dismounting.

61.13. Before the consideration for a protest, the stewards may demand a deposit of twenty-five dollars (\$25.00) to be made with the horsemen's bookkeeper. This deposit shall be applied to the costs and expenses, as provided.

61.14. Any excess shall be refunded unless the protest is found to be frivolous, in which case the deposit may be assessed as a fine or payment toward a part thereof.

61.15. A person or persons lodging a protest must pay all costs and expenses incurred in determining the objection. However, if his or her objection is upheld, the cost shall be paid by the offender.

61.16. Pending the determination of a protest, any money or prize won by a protested horse, or any other money affected by the outcome of the protest shall be paid to and held by the horsemen's bookkeeper until the protest is resolved.

61.17. A protest may not be withdrawn without permission of the stewards.

61.18. No person shall make a frivolous protest.

61.19. The stewards shall keep a record of all protests and complaints and any action taken thereon and report both to the Racing Commission daily.

61.20. Unless otherwise provided herein, all protests must be filed in writing with the stewards within twenty-four (24) hours after the occurrence of the event upon which the protest is based.

§178-1-62. Scale of Weights for Age.

62.1. The following is the scale of weights for age and shall be carried when not otherwise specified in the conditions of the races: (See Table 62.1 at the end of this rule)

62.2. In races of intermediate lengths, the weights for the shorter distance are carried.

62.3. In all races except handicaps and races in which the conditions expressly state to the contrary, fillies two (2) years olds are allowed three (3) pounds, and fillies and mares three (3) years old and upward are allowed five (5) pounds before the 1st of September and three (3) pounds thereafter.

62.4. Minimum weight in all overnight races for two (2) year olds, for three (3) year olds, or for four (4) year olds and upward shall be one hundred ten (110) pounds subject to sex and apprentice allowances. This rule shall not apply to handicaps or to races written for three (3) year olds and upward.

§178-1-63. Weighing Out.

63.1. The specified jockeys shall be weighed out for their respective horses in each race by the clerk of the scales not less than twenty (20) minutes before the time fixed for the race, unless otherwise authorized by the stewards. In case of substitution of a rider after the original rider has been weighed out, the substitute rider shall be weighed out as promptly as possible and the name of the substitute and his or her weight publicly announced and displayed.

63.2. No jockey may carry overweight in excess of two (2) pounds without permission of the owner or trainer, and under no

circumstances, shall the overweight exceed seven (7) pounds.

63.3. If the overweight is more than two (2) pounds in excess of the weight the horse is to carry, (the owner or trainer consenting) the jockey shall declare the amount of overweight to the clerk of the scales at the time appointed. The clerk shall have the overweight displayed immediately on the notice board or announce publicly. Failure on the part of any jockey to comply with this rule shall be reported to the stewards.

63.4. If an underweight in excess of two (2) pounds is discovered after wagering has commenced and before the actual start of the race, the horse shall be returned to the paddock and the weight corrected.

63.5. None of the following items should be included in a jockey's weight: Whip, head number, bridle, bit, reins, blinkers, number cloth, safety helmet, and safety vest.

63.6. The association shall provide the only attendants who will be permitted to assist jockeys in weighing out or at any other time while in the performance of their duties. The attendants shall be approved by the Racing Commission and issued an occupational permit.

§178-1-64. Weighing in.

64.1. After a race has been run and after the jockey has pulled up the horse he or she has ridden, the jockey shall ride promptly to the unsaddling area and dismount, but not before having obtained permission from the stewards to present himself or herself to the clerk of the scales to be weighed in.

64.2. If a jockey is prevented from riding his or her horse to the unsaddling area because of an accident or of illness to himself or herself or his horse, he or she may walk or be carried to the scales or he or she may be excused by the stewards from weighing in. In no case shall the jockey ride a horse bleeding profusely or crippled past the public grandstands, nor shall he or she attempt to lead him or have him led past the public stands.

64.3. Except by permission of the stewards, every jockey must, upon returning to the unsaddling area unsaddle the horse he or she has ridden. No person shall touch the horse except by his bridle.

64.4. No person shall assist a jockey in removing from his or her horse the equipment that is to be included in the jockey weight

except by permission of the stewards.

64.5. No person shall throw any covering over any horse at the place of dismounting until the jockey has removed the equipment that is to be included in his or her weight.

64.6. No jockey shall, before weighing in, willfully touch any person or thing, other than the equipment that is to be included in his or her weight.

64.7. Each jockey shall, in weighing in, carry over the scales all pieces of equipment with which he or she weighed out. Thereafter, he or she may hand it to his or her attendant.

64.8. Each jockey shall weigh in at the same weight as that at which he or she weighed out, and if less by more than two (2) pounds, his or her horse shall be disqualified.

64.9. No jockey shall weigh in at more than two (2) pounds over the weight at which he or she weighed out, except as the weight may have been affected by the elements.

§178-1-65. Workout.

65.1. Every Racing Commission occupational permit holder exercising a horse shall, upon request of an official timer, correctly state the distance over which that horse is to be worked, and the point on the racing strip, where it is intending to start the workout. He or she must identify the horse when requested.

65.2. Permission must be obtained from a steward and the track superintendent to exercise a horse on the racing strip between races.

65.3. When a horse is being warmed up or exercised, a public announcement shall be made giving the name of the horse and explaining its presence on the racing strip.

65.4. Any horse which has not raced for a period of sixty (60) days must have one (1) published workout, or a workout certified by the official clocker to be announced over the public address system prior to the horse starting.

§178-1-66. Medication.

66.1. A trainer shall prevent the administration of any drug or medication or other prohibited substance that may cause violation

of this rule.

66.2. Blocking of horses' legs or ankles are prohibited. The blocking of the nerves in a horse's leg or ankle by hypodermic injection or the use on a horse of so-called local anesthetics is prohibited at any time on a day when the horse is entered to run in a race.

66.3. Possession of certain drugs, instruments, appliances are prohibited.

66.3.1. No person, except licensed veterinarians, shall have in his or her possession within the association's grounds where horses are kept that is eligible to race the following: any drug which might affect the speed or actions of a horse, or hypodermic syringes or hypodermic needles or similar instruments which may be used for injection, or batteries, or other appliance which might affect the speed or actions of a horse.

66.3.2. Veterinarians practicing veterinary medicine on any race track where a race meeting is in progress or pending shall use "one (1) time disposable needles" and shall dispose of them in an approved manner.

66.3.3. Sterile equipment must be used for collecting samples.

66.4. Permission for the use of any special or medicated type of bandage to be applied to the leg of a horse that is entered to run in a race on the day of the race shall be secured from the Racing Commission veterinarian subject to the approval of the stewards. The Racing Commission veterinarian shall keep a record of all details of the requests.

66.4.1. Any moneys won by a horse found to have been administered to as described in this section shall be forfeited and redistributed.

66.5. No horse participating in a race shall carry in its body any drug substance, its metabolites, or analog which are foreign to the natural horse except as provided, by this rule.

66.5.1. Phenylbutazone and oxyphenylbutazone are to be administered in such dosage amounts that the test sample shall not contain more than 5 micrograms of the drug substance, its metabolites and analog per milliliter of blood plasma or more than 165 micrograms of the drug substance, its metabolites and analog per

milliliter of urine.

66.5.2. Phenylbutazone and oxyphenylbutazone may be administered after the horse is entered to race, but in no event later than twenty-four (24) hours before post time of the race in which the horse is entered.

66.5.3. A horse observed to be hemorrhaging from the lungs through one or both nostrils and before leaving the track proper; or hemorrhage from the lung that has been verified by endoscopic examination immediately following the running of a race or workout, by the state veterinarian or the designated veterinarian, shall be placed on a bleeder list and is eligible to be treated on race day to prevent bleeding during its race with the medication furosemide (lasix).

66.5.4. Any horse that is to be treated with furosemide (lasix) must be treated by his or her regular veterinarian no later than four (4) hours before post time, in amounts not to exceed 500 mg (10 ml), by the intravenous route only.

66.5.5. Any person breaching the provisions of this medication rule shall be subject to a fine, suspension, or revocation of the occupational permit.

66.5.6. The Racing Commission may issue orders governing medication procedures and related instructions. These orders may amplify the provisions of this article.

66.6. Any moneys and awards won by a horse found to have been in violation of this rule shall be forfeited and redistributed.

66.7. If the stewards shall find that any masking or interfering agent is found in the post race urine, the stewards shall impose punishment and take other action as they may deem proper under the rules.

66.7.1. Should the analysis of any saliva, urine or other sample taken from any horse show the presence of any substance which is the result of any oral, topical or injected medication that has not been administered in accordance with this rule, the trainer and any other person shown to have had the care or attendance of the horse may be fined or his or her occupational permit suspended, or both.

66.7.2. Notwithstanding anything to the contrary in this rule, furosemide, Phenylbutazone or any derivative or compound thereof may

be administered to any two (2) year old horse.

§178-1-67. Vendors of horse feed or medicine.

67.1. Any vendor of horse feed or medicines of any kind or description shall file with the Racing Commission veterinarian a list of products which he or she proposes to sell or deliver on the grounds of a race track and shall further submit for approval to the Racing Commission veterinarian any new preparation to be offered for sale. If the vendor offers any preparation not approved, or not listed, he or she shall be denied the privileges of the stable area.

§178-1-68. Appeal and review.

68.1. A majority of the stewards at any horse race meeting may suspend an occupational permit and the suspension shall be effective immediately. The stewards shall, as soon as thereafter practicable, make and enter an order to that effect and serve a copy thereon on the occupational permit holder either personally or by certified mail, with return receipt requested. The order shall state the grounds for the suspension.

68.2. Any person or persons penalized or disciplined under the laws of the State of West Virginia or under this rule may request a hearing before the Racing Commission. A written request for a hearing must be received by the Racing Commission at its office in Charleston within twenty (20) days after receipt of the written order or suspension or revocation.

68.2.1. The request for hearing shall be filed by the person making it and it must set forth his or her reason for believing he or she is entitled to a hearing.

68.2.2. The request must be set forth if the petitioner desires a court reporter for transcribing of any testimony.

68.2.3. Security for costs in the amount of one hundred dollars (\$100.00) must accompany the appeal. In the event the Racing Commission deems the aforesaid security for costs insufficient as to amount, the additional security for cost specified by the Racing Commission must be deposited at the Racing Commission office within ten (10) days after notification.

68.3. An appeal from a decision of a racing official to the Racing Commission shall not affect the decision until the appeal has been acted upon by the Racing Commission.

68.4. Upon receipt of the written demand for the hearing, in accordance with **section 68.2.** of this rule, a time and place not less than ten (10) nor more than thirty (30) days thereafter will be set by the Racing Commission. Any scheduled hearing may be continued by the Racing Commission upon its own motion or for good cause shown by the person demanding the hearing.

68.5. Any person making an application for a hearing will be heard in person or by counsel, and if the party so desires, with the approval of the Racing Commission, the party may submit his case in writing.

68.6. All complaints and requests to the Racing Commission must be in writing and all papers filed with the Racing Commission shall be the property of the Racing Commission.

§178-1-69. Auditors of Pari-Mutuel.

69.1. A director of audits and auditors of pari-mutuel wagering shall be appointed annually by the Racing Commission and shall be compensated by the Racing Commission. Their duties shall be determined from time to time by the Racing Commission and the auditors of pari-mutuel shall be subject to removal at any time by the Racing Commission.

69.2. The director of audits, and any other auditors employed by the Racing Commission, shall be certified public accountants or experienced public accountants. They shall have free access to the space or enclosure where the pari-mutuel system of wagering is conducted or calculated at any horse race meeting for the purpose of ascertaining whether or not the licensee is deducting and retaining only a pari-mutuel commission as provided in the current Racing Act, and is otherwise complying with the other provisions of the Racing Act relating to the pari-mutuel system. They shall also, for the same purposes only, have full and free access to all records and papers pertaining to the pari-mutuel system of wagering and shall report to the Racing Commission, in writing under oath, whether or not the licensee has deducted and retained any pari-mutuel commission in excess of that permitted under the Racing Act or has otherwise failed to comply with the provisions of those sections of the Racing Act pertaining to the pari-mutuel system.

69.3. The auditors of pari-mutuel shall be afforded every facility for performing all the duties that may be assigned to him or her by the Racing Commission, including the following:

69.3.1. Every association licensed by the Racing Commission

shall furnish the Racing Commission copies of their first payroll and any other that might be requested, both pari-mutuel and operative covering all employees performing services during any race meeting.

69.3.2. Copies of all pari-mutuel work sheets are to be turned over to the auditor of pari-mutuels immediately after each race.

69.3.3. At the end of each race day, a consolidated report showing detailed figures of the pari-mutuel handle, pari-mutuel commission and breakage shall be handed to the auditor of pari-mutuels. Also, copies of the consolidated report, report of pari-mutuel tickets paid shall be submitted.

69.3.4. At the end of each day, every signed complaint made by any customer, with reference to transactions with pari-mutuel clerks shall be reported on printed complaint forms and furnished to the auditor of pari-mutuels the next day.

69.3.5. A totalizer report shall be kept available by the manager of the money room of all errors made by the pari-mutuel sellers or cashiers, commonly called "Shorts or Overs". The reports shall detail the name of the seller or cashier, and his or her working place and the amount involved. At the end of each meet this report is to be given to the auditor of pari-mutuels for filing with the daily records enumerated in subsections 69.3.2, 69.3.3 and 69.3.4 above.

69.3.6. All moneys held by any licensee for the payment of outstanding and unredeemed pari-mutuel tickets, if not claimed within ninety (90) days after the close of the horse race meeting in connection with which the tickets were issued, shall be turned over by the licensee to the Racing Commission within fifteen (15) days after the expiration of the ninety (90) day period. The licensee shall give information as the Racing Commission may require concerning outstanding and unredeemed tickets including, the out's ledger enumerating all outstanding pari-mutuel tickets at the end of the ninety (90) day period. In addition, a statement is to be prepared to accompany the ledger setting forth the dollar amount of the redeemed tickets in the ninety (90) day period. In addition, a statement is to accompany the ledger setting forth the quantity and amount of each denomination redeemed during the ninety (90) day period. The redeemed amount is to be subtracted from the out's balance which existed at the close of the meeting with the remaining balance to be included in the remittance of the association in settlement of the "out's" account for the meeting.

69.3.7. Each association shall provide a work area for the exclusive use of the auditor of pari-mutuels that is subject to the approval of the Racing Commission this work area shall:

69.3.7.1. be located within or adjacent to the totalizator room with desk and chair facilities;

69.3.7.2. permit direct view or view by closed circuit television of the totalizator facilities within the totalizator room, such as control desk consoles, inside totalizator board or closed circuit television monitors of the outside totalizator board whichever is used, and printers;

69.3.7.3. include space for locking file cabinets within the work area or other proper storage facilities to be supplied by the association;

69.3.7.4. include an audio listening device for the public address system being used by the association for the address system to be heard intelligibly in the work area;

69.3.7.5. include power outlets to operate electronic equipment.

69.3.8. All pari-mutuel tickets purging sessions shall occur only after at least two (2) week prior notice in writing is given to the Racing Commission of the sessions. Further, the actual purging shall occur in the presence of a totalizator representative, an association representative and representative of the Racing Commission.

69.3.9. Cashed pari-mutuel tickets and computer printouts:

69.3.9.1. Access to cashed pari-mutuel tickets and computer printouts shall be prohibited unless authorized by the Racing Commission.

69.3.9.2. Cashed pari-mutuel tickets and all computer print-out sheets shall be secured in a facility where fire protection devices are installed and operable.

69.3.9.3. Cashed pari-mutuel tickets and computer print-out sheets storage shall be secured by a locking system. Access to the locked storage facilities is the responsibility of the mutuel manager. The facilities must be locked at all times except when access is needed by the mutuel manager or his or her designee and

the Racing Commission.

§178-1-70. State Security Officer.

70.1. The Racing Commission security officer shall work in conjunction with the Racing Commission license clerk to determine that all owners, trainers, grooms, jockeys, jockey agents, etc., have a West Virginia occupational permit. This will require working in the Racing Commission license clerk's office during the morning working hours as needed. The Racing Commission security officer shall make a daily review of the program to verify that all persons listed thereon hold a West Virginia occupational permit and if there is any unlicensed personnel to take such action to insure immediate issuance of a West Virginia occupational permit.

70.2. The Racing Commission security officer shall make a daily inspection of the barn area during morning working hours to determine if proper security measures are in effect and to determine that all personnel in the barn area hold proper occupational permits. The Racing Commission security officer shall likewise make afternoon spot checks to determine that security is in effect at all gates and entrances to the restricted areas. The Racing Commission security officer shall, during the evening racing hours, make a daily check to insure the presence of guards at all gates and entrances to secured areas.

70.3. During racing hours the Racing Commission security officer shall make a daily inspection of the test barn area, the winner's circle and the wagering area to determine that proper security is present and that the integrity of all restricted areas is protected. The Racing Commission security officer shall take particular notice on a daily basis to insure that no minors are engaged in the purchase or cashing of tickets and as well to insure that no other illegal activity is being conducted in the wagering area. The security officer shall further make note of the presence of association security in all areas and that they are properly performing their duties.

70.4. The Racing Commission security officer shall further assist the stewards and the track security in all "shake downs" or raids of the barn area, jockeys' quarters or in any other matters as may be directed by the stewards.

§178-1-71. State Breeder Awards.

71.1. A bona fide resident means a person who maintains a permanent residence within the State of West Virginia, with the

intent of remaining therein, and, for the purpose of qualifying for the awards mentioned in section thirteen, article twenty-three, chapter nineteen of the Code. Further, the resident has the physical facilities present in this State to actively engage in the business, profession or occupation of owning, breeding or the siring of horses for racing purposes.

71.2. Claims for state awards shall be made within ninety (90) days after the running of the race for which an award is claimed.

71.3. Claims for state awards, submitted by individuals will not be processed unless they can substantiate that they have been residents of the State of West Virginia for at least one (1) year before the date that the claim for the award is submitted.

71.4. If more than one resident has an interest in a horse which earns an award, one (1) award will be paid to the individual resident, appointed in writing, by the other resident or residents.

71.5. A corporation duly registered as a resident business with the Secretary of State, is a resident within the provision of the law.

71.6. If more than one (1) stallion is indicated in the Jockey Club records to be the sire of the winning horse, no sire owner will be paid.

§178-1-72. West Virginia Thoroughbred Development Fund.

72.1. A copy of The Jockey Club certificate of foal registration shall be attached to the West Virginia bred or sired registration form as a requirement to participate in the West Virginia thoroughbred development fund.

Non-resident owners who are foaling mares in West Virginia and are not breeding back to West Virginia sires shall complete an affidavit to be supplied by the Racing Commission.

All West Virginia bred, sired or raised horses shall be registered with the West Virginia thoroughbred breeders association to be eligible to participate in any phase of the West Virginia thoroughbred development fund.

§178-1-73. Alcohol and Drug Testing.

73.1. No licensee, occupational permit holder or employee of any entity associated with the conduct of racing while on the

grounds of a licensed or franchised race track shall have present within his or her system any amount of alcohol which would constitute legal impairment or intoxication.

Acting with reasonable cause, the stewards or a designated Racing Commission representative may direct any licensee, occupational permit holder or employee to submit to a breathalyzer test. The licensee, occupational permit holder or employee shall, when so directed, submit to such examination. If the results thereof show a reading of .05 percent alcohol content or more, the licensee, occupational permit holder or employee shall not be permitted to continue his or her duties for that day. The licensee, occupational permit holder or employee shall then be subject to fine, or suspension by the stewards or Racing Commission.

For a subsequent violation the licensee, occupational permit holder or employee may be subject to procedures following positive chemical analysis (below).

73.2. No licensee, occupational permit holder or employee of any entity associated with the conduct of racing while on the grounds of a licensed or franchised racetrack shall have present within his or her system any controlled substance as listed in schedule I-V of the U.S. Code, Title 21 (Food and Drugs Section 812), or any prescription legend drug unless such prescription legend drug is obtained directly or pursuant to valid prescription or order from a duly licensed physician who is acting in the course of his or her professional practice.

Acting with reasonable cause, the stewards or a designated Racing Commission representative may direct any licensee, occupational permit holder or employee to deliver a specimen of urine in the presence of a person designated by the Racing Commission or subject himself or herself to the taking of a blood sample or other body fluids by a person designated by the Racing Commission.

In such cases, the stewards or the designated Racing Commission representative may prohibit the licensee, occupational permit holder or employee from participating in the day's racing or until such time as the licensee, occupational permit holder or employee's evidences a negative test result.

A sufficient sample should be collected to insure a quantity for a split sample when possible.

Refusal by a licensee, occupational permit holder or employee to

provide the samples herein described, as so directed shall be in violation of these rules and shall subject the licensee or employee to sanction by the stewards or the Racing Commission.

All testing shall be at the expense of the Racing Commission or racing association.

73.3. For a licensee's, occupational permit holder's or employee's first violation he or she shall not be allowed to participate in racing until such time as his or her condition has been professionally evaluated.

After professional evaluation, if a licensee's, occupational permit holder's or employee's condition proves non-addictive and not detrimental to the best interest of racing, licensee, occupational permit holder or employee shall be permitted to participate in racing, provided he or she can produce a negative test result and agree to further testing at the discretion of the stewards or designated Racing Commission representative to insure his or her unimpairment.

After professional evaluation, should the licensee's, occupational permit holder's or employee's condition prove addictive or detrimental to the best interest of racing, the licensee, occupational permit holder or employee shall not be allowed to participate in racing until such time as he or she can produce a negative test result and show documented proof that he or she has successfully completed a certified alcohol drug rehabilitation program approved by the Racing Commission. The licensee, occupational permit holder or employee must agree to further testing at the discretion of the stewards or Racing Commission representative to insure his or her unimpairment.

For a licensee's, occupational permit holder or an employee's second violation, he or she shall be suspended and allowed to enroll in a certified alcohol/drug rehabilitation program approved by the Racing Commission, to apply for reinstatement only at the discretion of the Racing Commission.

Table 46.25. Approved jockeys fees:

PURSE	WIN	2ND	3RD	UNPLACED
\$400 and under	\$27	\$19	\$17	\$16
\$500	\$30	\$20	\$17	\$16
\$600	\$36	\$22	\$17	\$16
\$700 - \$ 900	10%	\$25	\$22	\$20
\$1,000 - \$ 1,400	10%	\$30	\$25	\$22
\$1,500 - \$ 1,900	10%	\$35	\$30	\$28
\$2,000 - \$ 3,400	10%	\$45	\$35	\$33
\$3,500 - \$ 4,900	10%	\$55	\$45	\$35
\$5,000 - \$ 9,900	10%	\$65	\$50	\$40
\$10,000 - \$14,900	10%	5%	5%	\$45
\$15,000 - \$24,900	10%	5%	5%	\$50
\$25,000 - \$49,900	10%	5%	5%	\$60
\$50,000 - \$99,900	10%	5%	5%	\$75
\$100,000 and up	10%			

Table 62.1

Distance	AGE	Jan. & Feb.	Mar. & April	May	June	July
One-Half Mile	2 yrs.					
	3 yrs.	117	119	121	123	125
	4 "	130	130	130	130	130
Six Furlongs	5 " & up		130	130	130	130 130
	2 yrs.					
	3 "	114	117	119	121	123
	4 "	129	130	130	130	130
One Mile	5 " & up		130	130	130	130 130
	2 yrs.					
	3 "	107	111	113	115	117
	4 "	127	128	127	126	126
One Mile and a Quarter	5 " & up		128	128	127	126 126
	2 yrs.					
	3 "	101	107	111	113	116
	4 "	125	127	127	126	126
One Mile and a Half	5 " & up		127	127	127	126 126
	2 yrs.					
	3 "	98	104	108	111	114
	4 "	124	126	126	126	126
Two Miles	5 " & up		126	126	126	126 126
	2 yrs.					
	3 yrs.	96	102	106	109	112
	4 "	124	126	126	126	126

Distance	Age	Aug.	Sept.	Oct.	Nov. & Dec.
One-half Mile	2 yrs.	105	108	111	114
	3 "	126	127	128	129
	4 "	130	130	130	130
	5 " & up		130	130	130 130
Six Furlongs	2 yrs.	102	105	108	111
	3 "	125	126	127	128
	4 "	130	130	130	130
	5 " & up		130	130	130 130
One Mile	2 yrs.		96	99	102
	3 "	119	121	122	123
	4 "	126	126	126	126
	5 " & up		126	126	126 126
One Mile and a Quarter	2 yrs.				
	3 "	118	120	121	122
	4 "	126	126	126	126
	5 " & up		126	126	126 126
One Mile and a Half	2 yrs.				
	3 "	117	119	121	122
	4 "	126	126	126	126
	5 " & up		126	126	126 126
Two Miles	3 yrs.	114	117	119	120
	4 "	125	125	124	124
	5 " & up		125	125	124 124

Administrative procedures prior to split sample	40
Administrative.	11
Alcohol and Drug Testing.	99
Also Eligible.	56
Appeal and Review	94
Associations.	14
Auditor of Pari-mutuels.	95
Authorized agents.	72
Blacksmiths.	71
Bleeders.	34
Calculation of Time.	11
Camera and film patrol.	45
Chemist.	38
Claiming.	77
Clerk of Scales	30
Colors and equipment.	47
Corporations.	41
Cost of split sample testing	34
Dead Heats.	81
Declarations and scratches.	48
Definitions.	1
Disciplinary Action.	50
Engagements and Transfer	50
Entries, Declarations and Subscriptions.	51
Financial Responsibilities.	13
Handicapper.	32
Horsemen's Bookkeeper	27
Identifier	32
Illegal and Corrupt Practices.	84
Jockey Agents.	69
Jockey Room Custodian	31
Jockeys and Apprentice Jockeys.	63
Medication.	91
Minors.	13
Naming of Riders.	70
Occupational Permits and Permit holders	58
Officials.	21
Owners - Trainers.	71
Oxyphenylbutazone	73
Paddock Judge	28
Paddock to Starting Gate	81
Partnership	73
Penalties and Allowances	57
Phenylbutazone	73
Placing Judges.	27

Policing	46
Post time	
Postponement and Cancellation of Races.	63
Practicing Veterinarian	34
Preferred List	57
Preferred List.	57
Racing Secretary	26
Sanitation	47
Split Samples	39
Stable Name	74
Starter	29
Starting Gate to Finish	83
State Security Officer	98
State Veterinarian	33
State Breeders Awards	98
Stewards	22
Storage and Shipment	41
Telephone, Telegraph, Radio and Television	
Test Barn.	36
Timer	28
Tip Sheet Vendor	62
Trainer	75
Trainer Responsibility	44
Weighing Out.	89
Weighing in.	90
West Virginia Thoroughbred Development Fund.	99