WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION

Form #3

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2010 JUL 27 PM 3:03

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

AGENCY: West Virginia Racing Commission TITLE NUMBER: 178

CITE AUTHORITY: WV Code 19-23-2(a), 19-23-3(17), 19-23-6, 19-23-8, 19-23-9, 19-23-13, 19-23-13b, 19-23-15

AMENDMENT TO AN EXISTING RULE: YES x NO ____

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1

TITLE OF RULE BEING AMENDED: Thoroughbred Racing

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: ____

TITLE OF RULE BEING PROPOSED: ____

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

Authorized Signature

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: July 27, 2010

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM:(*Agency Name, Address & Phone No.*) West Virginia Racing Commission
106 Dee Drive
Charleston, West Virginia 25311

LEGISLATIVE RULE TITLE:
Thoroughbred Racing

1. Authorizing statute(s) citation West Virginia Code 19-23-2(a), 19-23-3(17), 19-23-6, 19-23-8, 19-23-9, 19-23-13, 19-23-13b, 19-23-15

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

June 7, 2010 (filed for 30 day public comment period)

b. What other notice, including advertising, did you give of the hearing?
Public comment period was advertised on WV Racing Commission's website

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

Public Comment Period ended on July 8, 2010 at 5:00 p.m.

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

Attached x No comments received

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

Not applicable. There was no public hearing.

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

Jay Bowling, Executive Secretary
West Virginia Racing Commission
106 Dee Drive
Charleston, WV 25311
(304) 558-2150 (phone)
(304) 558-6319 (fax)
bowling@wvnet.edu

Kelli D. Talbott, Deputy AG
West Virginia Attorney General
State Capitol Bldg 1 Rm E-26
Charleston, WV 25305
(304) 558-2021 (phone)
(304) 558-0140 (fax)
kelli.talbott@wvago.gov

g. **<u>IF DIFFERENT</u> 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)

Same as f

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.

Not applicable

b. Date of hearing or comment period:

Not applicable

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

Not applicable

d. Attach findings and determinations and reasons:

Attached Not applicable

BRIEF SUMMARY OF PROPOSAL

THOROUGHBRED RACING 178 CSR 1

This proposed rule is intended to repeal and replace the existing Thoroughbred Racing rule promulgated by the West Virginia Racing Commission. This proposed rule is a complete re-write of the Thoroughbred Racing rule that is the culmination of approximately seven months' worth of work by a constituent committee appointed by the Racing Commission. The existing Thoroughbred Racing rule is outdated, poorly organized, and, in some instances, poorly worded.

In November 2009, the Racing Commission appointed a committee to work with its legal counsel from the Attorney General's Office to re-write this rule. The committee members were: Kelli Talbott, Deputy Attorney General; Danny Wright, Chief Steward – Charles Town; Jim O'Brien, Chief Steward – Mountaineer; Erich Zimny, Director of Racing Operations – Charles Town; Rose Mary Williams, Director of Racing – Mountaineer; Leonard Hale, Executive Director – Charles Town Horsemen's Benevolence and Protective Association (HBPA); Maria Catignani, Executive Director – Mountaineer HBPA; Dr. James Casey, D.V.M. – West Virginia Thoroughbred Breeders Association; and, Jeff Johnston, Regional Manager – Jockeys' Guild.

In May 2010, the committee's work resulted in a recommendation to the Racing Commission to re-write the rule and the proposed re-write was submitted for the Commission's consideration. The Commission voted to adopt the committee's proposed re-write and put the rule out for public comment. The comment period concluded on July 8, 2010; the Commission made several adjustments to the rule based upon these comments; and, the Commission now files this rule for consideration by the West Virginia Legislature.

The highlights of the re-write of the rule are as follows:

• Complete reorganization of the rule in a format that is more user-friendly; that mirrors the Association of Racing Commissioners International (RCI) Model Rule; and, that makes logical sense.

•Major re-write of medication rule that governs the medicating of thoroughbreds; the testing of thoroughbreds; and the penalties for violation of medication rules. The re-write adopts substantial portions of the RCI Model Rule pertaining to medication. The highlights of the changes to the medication rule are:

■ thresholds for anabolic and/or androgenic steroids;

■ a revision of the "lasix" rule (lasix is a medication given to horses who exhibit bleeding through the nostrils that is commonly induced by exercise);

■ the adoption of the RCI's classification system for medications and substances;

■ a schedule of penalty guidelines to be imposed upon a finding of a medication rule violation; and

■ provisions that pertain to possible environmental contaminants and other substances that horses may be inadvertently exposed to that may affect testing.

•A rule changes that requires pre-race examinations of horses scheduled to race. This rule change will require the hiring of two additional veterinarians, one at each track.

•A rule changes that requires that all three stewards at each track be Commission employees. This change will require the hiring of two additional stewards, one at each track.

•A rule change that requires the hiring of a security officer by the Racing Commission at each track.

•A rule changes that adopts the Kentucky Racing Commission's rule that allows and regulates jockey advertising.

•A re-write of the rules pertaining to the racing officials that are integral to the running of the race.

•A re-write of the due process/hearing rules that pertain to stewards' hearings and Commission hearings.

•A rule change that raises the maximum fine that can be issued for rule violations from $1,000.00 per case to $5,000.00 per rule violation.

•A rule change that raises the minimum age for issuance of an occupational permit from sixteen to eighteen.

•A modest increase in permit fees for every category of permit issued by the Commission.

•An increase in the jockey mount fees that must be paid to jockeys for riding horses in a race and a proviso that allows the majority of the jockeys and a majority of the horsemen at a track to reach special agreements regarding mount fees.

STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE

178 CSR 1 THOROUGHBRED RACING

This proposed Legislative Rule re-writes the rules governing thoroughbred racing at the horse racetracks in the State of West Virginia. The current rule is outdated, poorly organized, poorly worded, and has not kept pace with current developments in the thoroughbred racing industry.

The constituents in the horse racing industry support the Racing Commission's decision to improve the rules of thoroughbred racing by updating the rules. To develop the proposed rule, the Racing Commission appointed a constituent committee from the horse racing industry in this State to work with its legal counsel from the Attorney General's Office. The proposed rule is the culmination of seven months of committee meetings and discussions and represents the committee's and the Racing Commission's vision of what is in the best interest of the thoroughbred racing industry.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Thoroughbred Racing

Type of Rule: [X] Legislative [ ] Interpretive [ ] Procedural

Agency: West Virginia Racing Commission

Address: 106 Dee Drive, Suite 2
Charleston, WV 25311

Phone Number: (304) 558-2150 Email: racing@wvnet.edu

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

This proposed rule will cause the addition of six (6) positions to the Commission's payroll: Two (2) Stewards, two (2) Security Officers and two (2) Veterinarians.

The proposed rule will also require the Commission to pay for the services of a qualified professional to conduct necropsies on selected thoroughbreds that expire on racetrack grounds or that suffer injuries while racing that cause the euthanization of the thoroughbred. The Commission will also be required to absorb any costs associated with transporting expired thoroughbreds to the premises of the examining professional.

The proposed rule also includes a modest increase in occupational permit fees.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	633,120.00		633,120.00
Personal Services	354,000.00		354,000.00
Current Expenses	159,300.00		159,300.00
Repairs & Alterations			
Assets			
Other	119,820.00		119,820.00
2. Estimated Total Revenues	583,688.00		583,688.00

Rule Title: Thoroughbred Racing

Rule Title: Thoroughbred Racing

3. Explanation of above estimates (including long-range effect):
Please include any increase or decrease in fees in your estimated total revenues.

Under this proposed rule, the Racing Commission will need to hire two (2) Stewards, two (2) Security Officers and two (2) Veterinarians. The estimated fiscal impact, including salaries, benefits and operating expenses for the additional six employees, is $630,120.00. The Racing Commission has funds available in the General Administrative Fund and the Administrative and Promotion Fund for the West Virginia Thoroughbred Breeders' Development Fund for Fiscal Years 2011 and 2012 to incur the cost of the additional employees. Beyond Fiscal Year 2012, the Racing Commission will need additional administrative funds made available to comply with the rule.

Under this proposed rule, the Racing Commission will be required to pay for the services of a qualified professional to conduct necropsies on selected thoroughbreds that expire on racetrack grounds or that suffer injuries while racing that cause the euthanization of the thoroughbred. The Commission will also be required to absorb any costs associated with transporting expired thoroughbreds to the premises of the examining professional. It is estimated that a single necropsy will cost approximately $1,000.00 and that the costs of transporting an expired thoroughbred for a necropsy will cost $200.00 to $500.00. The Commission is projecting that it may order one to two necropsies a year to investigate the cause of death or injury to a thoroughbred or thoroughbreds. Therefore, the Commission estimates a total cost, based upon the performance of two necropsies, of $3,000.00 ($2,000.00 for necropsy services and $1,000.00 for transportation) to be paid out of its General Administrative Fund. Based upon an estimate of one to two necropsies a year, the Commission can absorb this cost out of its General Administrative Fund.

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

As noted in the Fiscal Note Summary, this proposed rule creates an additional six (6) positions to the Commission's payroll, but also includes an increase to the annual occupational permit fee. Currently, however, the Racing Commission is required to deposit all fees and fines into a "relief fund" which is devoted to "hospitalization, medical care, and funeral expenses" incurred by permit holders who suffer injury or death while engaging in their occupation. W. Va. Code 19-23-14. Any balance in thie relief fund in excess of five-thousand dollars ($5,000.00) is mandated to be deposited into the general revenue fund of this state. Id. However, it is crucial to note that the Commission can only make payment from this relief fund in the rare situation where there is no insurance policy covering the injury or death. Id.

Therefore, the Racing Commission is not currently able to utilize the revenue generated by its own permit fees. In order to do so, which will become necessary to assist in funding the additional positions required by this rule, the Commission plans to seek an amendment to W. Va. Code 19-23-14. Allowing the Racing Commission to keep the fees imposed at the thoroughbred tracks would increase revenue by approximately $583,688.00.

Also, the Racing Commission intends to seek changes to the statutes pertaining to the Thoroughbred Development Fund which would provide an additional $700,000.00 in revenue to the Commission to assist in paying for the positions.

Date: 7/22/2010

Signature of Agency Head or Authorized Representative

Joyce E. Smith

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2010 JUL 27 PM 3:03

OFFICE WEST VIRGINIA
SECRETARY OF STATE

178CSR1

TITLE 178
LEGISLATIVE RULE
RACING COMMISSION

SERIES 1
THOROUGHBRED RACING

§178-1-1. General.

1.1. Scope. – This rule regulates the conduct of thoroughbred racing in this state and the administration of the West Virginia Thoroughbred Development Fund.

1.2. Authority. – W. Va. Code §§ 19-23-2(a), 19-23-3(17), 19-23-6, 19-23-8, 19-23-9, 19-23-13, 19-23-13b and 19-23-15.

1.3. Filing Date. –

1.4. Effective Date. –

1.5. Repeal of Former Rule. – This rule repeals and replaces W. Va. 178 CSR 1, Racing Commission, Thoroughbred Racing, filed April 6, 2007 and effective April 6, 2007.

PART 1. DEFINITIONS

§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 in this section.

2.1. "Accredited thoroughbred horse" means a horse that is foaled in West Virginia or sired by an accredited West Virginia sire.

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 the West Virginia Thoroughbred Breeders Association.

2.3. "Adjunct medication" means Aminocaproic acid, Tranexamic acid, Carbazochrome and no other medications.

2.4. "Age" means the age of a thoroughbred, 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. "Also-Eligible" pertains to:

2.6.a. a number of eligible horses, properly entered, which were not drawn for inclusion in a race, but which become eligible according to preference or lot if an entry is scratched prior to the scratch time deadline; or

2.6.b. in a trial race, the next preferred contestant that is eligible to participate when an entry is scratched, pursuant to the written conditions of the race.

2.7. "Appeal" means a request for the Racing Commission or its designee to hold a hearing and review any decisions or rulings of the stewards.

2.8. "Applicant" means any racing association making application for a license or any person making application for a permit.

2.9. "Arrears" means 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.

2.10. "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 horse racing and pari-mutuel wagering.

2.11. "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.

2.12. "Authorized agent" means a person appointed by an owner or a partnership to act as his or her representative by the execution of a notarized document signed by the owner and filed with the Racing Commission.

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

2.14. "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 or determined by laboratory methods.

2.15. "Bleeder list" means a tabulation of all horses designated as bleeders to be maintained by the Racing Commission veterinarian(s).

2.16. "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.

2.17. "Breakage" means the net pool minus payout.

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

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

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

2.21. "Chairman" means the chairman of the Racing Commission.

2.22. "Claiming race" means a race in which any horse starting may be claimed (purchased for a designated amount) in conformance with this rule.

2.23. "Clear and convincing evidence" means evidence which results in a reasonable certainty of the truth of the ultimate fact in controversy.

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

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

2.26. "Complaint" means all signed, written complaints made to the Racing Commission or any of its representatives.

2.27. "Conditions" means qualifications that determine a horse's eligibility to be entered in a race.

2.28. "Coupled Entry" means two or more contestants in a contest that are treated as a

single betting interest for pari-mutuel wagering purposes.

2.29. "Course" means the track over which horses race.

2.30. "Day" means a twenty-four (24) hour period ending at midnight.

2.31. "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.

2.32. "Declaration" means the act of withdrawing an entered horse from a race prior to the closing of entries.

2.33. "De novo" means a new hearing or a hearing for the second time conducted in the same or a similar manner in which the matter was originally heard and with a review of the previous hearing.

2.34. "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.

2.35. "Entry" means:

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

2.35.b. two (2) or more horses entered in the same race, which have common ties of ownership, lease or training.

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

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

2.38. A "Handicap" means a race in which the weights to be carried by the horses are assigned by the racing secretary for the purpose of equalizing their chances of winning for all horses entered.

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

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

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

2.42. "Horse race meeting" means the whole period of time ending on December 31st for which the Racing Commission requires a license.

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

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

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

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

2.47. "Licensee" means any racing association holding a license required by the provisions of West Virginia Code §§ 19-23-1 *et seq.* and this rule.

2.48. "Maiden" means a horse, which has never, in any country, won an official flat race published in the reports, records and/or statistics of the Daily Racing Form, Equibase or other recognized publications, other than in a match or private sweepstakes. A maiden which has been disqualified after having finished first is still to be considered a maiden.

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

2.50. "Match" means a race between two or more horses under conditions agreed to by their owners.

2.51. "Meet" means the specified periods and dates within a race meeting, during which an association is authorized by the Racing Commission to conduct racing and/or pari-mutuel wagering.

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

2.53. "Milkshaking" or "biocarbonate loading" means a bicarbonate or other alkalinizing substance administered to a horse that elevates the horse's bicarbonate level or pH level above those existing naturally in the untreated horse at normal physiological concentrations as determined by the Commission, regardless of the means of administration.

2.54. "Month" means a calendar month.

2.55. " Mutuel Field" means a single betting interest involving more than one (1) horse which is formed when the number of horses starting a race exceeds the numbering capacity of the totalizator and where all horses of a higher number are grouped in the mutuel field.

2.56. "Nerved" means any horse on which a neurectomy has been performed.

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

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

2.59. "Objection" means 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 stewards declare the race official.

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

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

2.62. "Official running time" means the elapsed time from the moment the first horse crosses the starting point until the first horse crosses the finish line.

2.63. "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.

2.64. "Outstanding ticket" means a winning or a refundable pari-mutuel ticket, which was not cashed during the performance for which it was issued; also known as "outs".

2.65. "Overnight" means a contest for which the entries are closed at a time set by the association's racing secretary.

2.66. "Owner" means a person who holds any title, right or interests 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.

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

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

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

2.70. "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 (3) contestants on the basis of the number of wagers.

2.71. "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.

2.72. "Patron" means a member of the public present on the grounds of an association during a meeting for the purpose of wagering or to observe racing.

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

2.74. "Permit" or "occupational permit" means a permit required by West Virginia Code § 19-23-2(a) and this rule for those who are 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.

2.75. "Permit holder" or occupational permit holder" means any individual holding a permit or occupational permit required by West Virginia Code § 19-23-2(a) and this rule.

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

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

2.78. "Post position" means the pre-assigned position from which a horse will leave the starting gate.

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

2.80. "Preponderance of evidence" means evidence which is of a greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not.

2.81. "Primary Testing Laboratory" means a laboratory selected by the Racing Commission employing official chemists who are members in good standing with the Association of Official Racing Chemists.

2.82. "Private sweepstake" means a contest 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.

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

2.84. "Prospective licensee" 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.*

2.85. "Protest" means a written complaint made to the stewards concerning a horse entered in a race in which the questioned horse is entered;

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

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

2.88. "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.

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

2.90. "Racing official" means the officials of a race meeting set forth in section 6 of this rule and any other person and/or position designated by the Racing Commission.

2.91. "Raiser 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 shall 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 shall notify the Racing Commission of his or her intentions.

2.92. "Random testing" means testing permit holders for alcohol or controlled substances, or collecting specimens or samples from thoroughbreds, in a manner that assures that all affected individuals or horses have an equal probability of being selected for testing.

2.93. "Reasonable cause/reasonable suspicion testing" means testing permit holders for alcohol or controlled substances, or collecting specimens or samples from thoroughbreds, based on the reasonable belief of the stewards that a permit holder has alcohol or a controlled substance in his or her system, or that a thoroughbred has a drug, medication or other prohibited substance in its system that may constitute a violation of this rule.

2.94. "Recognized meeting" means:

2.94.a. a meeting held under license of the Racing Commission; or

2.94.b. a meeting held in this or any other country under the sanction of a Commission or turf authority whose jurisdiction over the Racing Commission recognizes racing of any nature, and which gives effect to sentences imposed by the Racing Commission upon those guilty of racing rule violations.

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

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

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

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

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

2.100. "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.

2.101. "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.

2.102. "Sponging" means the use of a sponge or other objects that are used to interfere with the respiratory system of a horse.

2.103. "Stable Name" means a name used other than the actual legal name of an owner or lessee and registered with the Racing Commission.

2.104. "Stakes race" means a contest in which nomination, entry and/or starting fees are assessed and contribute to the purse, unless it is a guaranteed purse or an invitational. No overnight race shall be considered a stakes race.

2.105. "Starter" means a horse which becomes an actual contestant in a race by virtue of the starting gate opening in front of it upon dispatch by the official starter.

2.106. "Steward" means a duly appointed racing official with powers and duties specified by West Virginia Code §§ 19-23-1 *et seq.* and/or this rule.

2.107. "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 any other prize is added, but no overnight race, whatever its conditions, shall be considered to be a sweepstake.

2.108. "Tailed" means the restraining of an unruly horse in the starting gate by manually raising his tail.

2.109. "Tonged" means the restraining of an unruly horse in the starting gate by clamping his ear with a set of tongs.

2.110. "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.

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

2.112. "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.

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

2.114. "Week" means a calendar week.

2.115. "Weigh in" means the act of a jockey weighing himself or herself in the presence of the clerk of scales after a race.

2.116. "Weigh out" means the act of a jockey weighing himself or herself in the presence of the clerk of scales prior to a race.

2.117. "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.

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

2.119. "Year" means a calendar year.

PART 2. GENERAL AUTHORITY

§178-1-3. General Authority of the Racing Commission.

3.1. This rule and any amendments or additions to this rule apply to all persons, firms, associations, partnerships, or corporations holding, conducting, participating in or observing a meeting.

3.2. 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.

3.3. The jurisdiction of the Racing Commission over matters related to subjects covered by the laws of this state governing racing or the rules of the Racing Commission is continuous throughout the year.

§178-1-4. Power Of Entry.

4.1. Members of the Racing Commission, the stewards, and the Racing Commission's designated employees and representatives have the right of full and complete entry to any and all parts of the grounds of a racing association licensed to conduct thoroughbred racing.

4.2. Members of the Racing Commission, the stewards, and the Racing Commission's designated employees and representatives may permit and direct any individual to enter in or upon the stables, rooms, trailers, vehicles or any other place within the grounds of a racing association licensed to conduct thoroughbred racing.

§178-1-5. Racing Commission personnel. The following provisions apply to the employment of certain personnel by the Racing Commission to assist it, the stewards, the Racing Commission veterinarians and other Racing Commission employees and representatives in fulfilling their regulatory duties and obligations:

5.1. Security Officer. The Racing Commission shall employ a security officer at each licensed racetrack. The security officer's duties shall include:

5.1.a. working with and/or at the direction of the stewards and/or the Racing Commission veterinarian(s) and/or the Racing Commission to investigate and inquire into any alleged violations of this rule or the laws of this state governing racing;

5.1.b. working with and/or at the direction of the stewards and/or the Racing Commission to review and evaluate applications

for occupational permits or licenses, and any information submitted or gathered in connection with such applications;

5.1.c. determining, or assisting the Racing Commission and/or the stewards in determining, that all persons participating in racing that are required to hold an occupational permit have such a permit;

5.1.d. inspecting the association's restricted areas, including, but not limited to, the test barn, the barn/stable area, the wagering area, the paddock, and the jockeys' room, to determine if proper security measures are in effect, to ensure that the integrity of these areas are preserved and protected, and to ensure that all personnel having access to the restricted areas hold occupational permits or other proper credentials;

5.1.e. working with and assisting all Racing Commission employees and representatives in the performance of their duties to ensure the enforcement of this rule and the laws of this state governing racing, and to ensure that the integrity of racing is preserved and protected; and

5.1.f. any other duties that may be assigned by the Racing Commission.

5.2. Investigator(s). The Racing Commission may employ one (1) or more persons as investigators at each licensed racetrack. The duties and responsibilities of the investigator(s) shall be fixed by the Racing Commission, but may include working in connection with the Racing Commission security officer in the performance of his or her duties.

5.3. License Clerks. The Racing Commission shall employ a minimum of two (2) persons as license clerks at each licensed racetrack. The license clerks' duties shall include:

5.3.a. distributing applications for occupational permits;

5.3.b. assisting in the review of applications for occupational permits;

5.3.c. maintaining records and data on each individual who applies for and/or is issued an occupational permit;

5.3.d. collecting fees and fines imposed by the stewards and/or the Racing Commission and reporting to the Racing Commission the amount of such fines and fees collected;

5.3.e. depositing fines and fees collected in accordance with Racing Commission policy and procedure;

5.3.f. assisting the stewards in the performance of their duties and responsibilities; and

5.3.g. any other duties that may be assigned by the Racing Commission.

5.4. Director of Audit and Auditors of Pari-Mutuel Wagering. The Racing Commission shall employ a director of audit in accordance with West Virginia Code § 19-23-5(b) and a minimum of one (1) auditor of pari-mutuel wagering to be stationed at each licensed racetrack. The director of audit and the auditors of pari-mutuel wagering shall be certified public accountants or experienced accountants. The duties and responsibilities of the director of audit and the auditors of pari-mutuel wagering shall be fixed by the Racing Commission. The following provisions apply to the director of audit and the auditors of pari-mutuel wagering:

5.4.a. The director of audit and the auditors of pari-mutuel wagering 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 West Virginia Code, and is otherwise complying with the other provisions of the West Virginia Code relating to the pari-mutuel system.

5.4.b. The director of audit and the auditors of pari-mutuel wagering shall have full and free access to all records and papers maintained or generated pertaining to the pari-mutuel system of wagering at licensed racetracks and shall make a written report to the Racing Commission as to whether or not the licensee has deducted and retained any pari-mutuel commission in excess of that permitted under the West Virginia Code or has otherwise failed to comply with the provisions of those sections of the Code pertaining to the pari-mutuel system.

5.4.c. Copies of all pari-mutuel work sheets are to be turned over by the association to the auditor of pari-mutuel wagering immediately after each race.

5.4.d. At the end of each race day, the association shall produce a consolidated report showing detailed figures of the pari-mutuel handle, pari-mutuel commission and breakage to the auditor of pari-mutuel wagering. The association shall also provide the auditor of pari-mutuel wagering a report of pari-mutuel tickets paid at the end of each race day.

5.4.e. At the end of each race day, every signed complaint made by any patron, with reference to transactions with the association's pari-mutuel clerks, shall be reported by the association on printed complaint forms and furnished to the auditor of pari-mutuel wagering.

5.4.f. A totalisator report shall be maintained by the association that reflects all errors, commonly called shorts or overs, made by the association's pari-mutuel clerks. The report shall detail the name of the clerk, his or her working place, and the amount involved. At the end of each meet, this report shall be provided to the auditor of pari-mutuel wagering.

5.4.g. In accordance with West Virginia Code § 19-23-13, 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 director of audit within fifteen (15) days after the expiration of the ninety (90) day period. The licensee shall give any information requested by the Racing Commission and/or the director of audit concerning outstanding and unredeemed tickets including, but not limited to:

5.4.g.1. the "outs" ledger enumerating all outstanding pari-mutuel tickets at the end of the ninety (90) day period;

5.4.g.2. a statement accompanying the "outs" ledger setting forth the dollar amount of the redeemed tickets in the ninety (90) day period;

5.4.g.3. a statement accompanying the "outs" ledger setting forth the quantity and amount of each denomination redeemed during the ninety (90) day period; and

5.4.g.4. a statement verifying that the redeemed amount was subtracted from the "outs" 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 "outs" account for the meeting.

5.4.h. The association shall provide a work area for the exclusive use of the auditor of pari-mutuel wagering that is subject to the approval of the Racing Commission. This work area shall:

5.4.h.1. be located within or adjacent to the totalisator room with desk and chair facilities;

5.4.h.2. permit direct view or view by closed circuit television of the totalisator facilities within the totalisator room, such as control desk consoles, inside totalisator board or closed circuit television monitors of the outside totalisator board whichever is used, and printers;

5.4.h.3. include space for locking file cabinets within the work area or other proper storage facilities to be supplied by the association;

5.4.h.4. include an audio listening device for the public address system being used by the association so that announcements made on the address system can be heard intelligibly in the work area; and

5.4.h.5. include power outlets to operate electronic equipment.

5.4.i. Purging of pari-mutuel tickets shall be done in the presence of the auditor of pari-mutuel wagering, a totalisator representative, and an association representative and may only be done after the association provides two (2) weeks' prior notice to the director of audit.

§178-1-6. Ejection/Exclusion.

6.1. 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 who are ejected have the right of appeal to the Racing Commission.

6.2. The stewards or the association 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.

6.3. When a person is excluded from a racetrack or is suspended, he or she is not 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 stewards rescind their penalty.

PART 3. RACING OFFICIALS

§178-1-7. General Provisions.

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

7.2. Eligibility. To qualify as a racing official, the appointee shall be:

7.2.a. of good character and reputation;

7.2.b. experienced in thoroughbred racing;

7.2.c. familiar with the duties of the position and with the Commission's rules of thoroughbred racing;

7.2.d. mentally and physically able to perform the duties of the job; and

7.2.e. in good standing and not under suspension or ineligible in any racing jurisdiction.

7.3. Approval and Issuance of Permits. The following provisions apply to the approval and issuance of permits to racing officials:

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

7.3.b. The association may designate persons to fill the positions of racing officials and request that they be approved for the position by the Racing Commission. No person shall be approved by the Racing Commission as a steward, placing judge, or other racing official unless he or she has taken and satisfactorily passed a yearly optical examination.

7.3.c. Unless prior written approval is obtained from the Racing Commission, no person shall be approved as a racing official of any racetrack 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 a racing official may have an interest in one or more horses as a breeder.

7.4. Prohibited Practices. While serving in an official capacity, racing officials and their assistants shall not:

7.4.a. participate in the sale or purchase, or ownership of any thoroughbred racing at the meeting;

7.4.b. sell or solicit horse insurance on any thoroughbred racing at the meeting;

7.4.c. be the holder of an occupational permit in any other capacity without permission of the Racing Commission, or in case of an emergency, the permission of the stewards;

7.4.d. directly or indirectly wager on the outcome of any race under the jurisdiction of the Racing Commission; or

7.4.e. consume or be under the influence of alcohol or any prohibited substances while performing official duties.

7.5. Report of Violations. Racing officials and their assistants shall report immediately to the stewards every violation of these rules and of the laws of this state governing racing.

7.6. Complaints Against Racing Officials. The following provisions apply to the filing and disposition of complaints against racing officials:

7.6.a. Complaints against any steward shall be made in writing to the Racing Commission and shall be signed by the complainant.

7.6.b. Any complaint against a racing official other than a steward shall be made to the stewards in writing and shall be signed by the complainant. All such complaints

shall be reported to the Racing Commission by the stewards, together with a report of the action taken or the recommendation of the stewards.

7.6.c. A racing official may be held responsible by the stewards or the Racing Commission for the actions of their assistants.

7.7. Appointment of Racing Officials. All racing officials shall be appointed by the association holding the meeting, with the exception of the Racing Commission veterinarian(s) and the stewards, who shall be appointed by the Racing Commission. 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, considers sufficient reason. The successor to the replaced official is also subject to the approval of the Racing Commission.

7.8. Appointment of Substitute Racing Officials. When a vacancy occurs among the racing officials other than the stewards and the Racing Commission veterinarian(s), and when the association has not or is unable to fill a 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 vacancy immediately.

§178-1-8. Stewards.

8.1. Appointment. There shall be three (3) stewards appointed by the Racing Commission for each race meeting. One (1) of the three (3) stewards shall be appointed by the Racing Commission to the position of chief steward. In the event that a steward is temporarily incapacitated or for some reason cannot serve, the Racing Commission or chief steward shall deputize someone experienced in thoroughbred racing to serve for him or her in his or her absence.

8.2. Accreditation and Continuing Education. The following provisions apply to the accreditation and continuing education requirements of the stewards:

8.2.a. To qualify for appointment as a steward, the appointee shall meet the experience, education and examination requirements necessary to be accredited by the Racing Officials Accreditation Program (ROAP) in association with, but not limited to, the University of Arizona and the University of Louisville, and shall be in good standing with all racing jurisdictions.

8.2.b. The stewards shall attend and participate in any continuing education courses and training related to thoroughbred racing directed by the Racing Commission.

8.3. General Authority. The following provisions pertain to the general authority of the stewards:

8.3.a. 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.

8.3.b. The stewards have general supervision and authority over all occupational permit holders or licensees and other persons attendant to horses and/or on the association grounds.

8.3.c. In their discretion and where fraud is suspected, the stewards shall have the authority to mandate the selection of another jockey to ride a thoroughbred.

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

8.3.e. When the stewards determine, after conferring with the association's management, representatives of the horsemen, jockeys, and the track superintendent, that races cannot be run, then the stewards shall cancel such races.

8.3.f. The stewards may demand for inspection any 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.

8.3.g. The stewards may 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 to produce proof of the extent of his or her interest or property in the horse. If proof is not given to their satisfaction, the stewards may declare or eliminate the horse from the race.

8.3.h. The stewards may interpret this rule and decide all questions of racing not specifically covered by this rule.

8.4. Period of Authority. The stewards' jurisdiction to act in any matter occurring during the race meeting extends after the conclusion of the meeting.

8.5. Disciplinary action. The following provisions pertain to disciplinary action by the stewards:

8.5.a. The stewards shall take notice of alleged misconduct or rule violations and initiate investigations into the matters.

8.5.b. The stewards shall have authority to charge any permit holder for a violation of these rules, to conduct hearings and to impose disciplinary action in accordance with these rules.

8.5.c. The stewards may issue subpoenas and subpoenas duces tecum to compel the attendance of witnesses and the production of documents or other evidence related to any investigation or hearing.

8.5.d. The stewards may at any time inspect permit documents, license documents, registration papers, and any other documents related to racing.

8.5.e. The stewards have the power to administer oaths and examine witnesses.

8.5.f. The stewards shall consult with the Racing Commission veterinarian(s) to determine the nature and seriousness of a laboratory finding or an alleged medication violation.

8.5.g. The stewards may impose one of the following penalties or any combination of two or more of the following penalties on a permit holder for a violation of these rules:

8.5.g.1. issue a reprimand;

8.5.g.2. assess a fine not to exceed five thousand dollars ($5,000.00) per violation;

8.5.g.3. require forfeiture or redistribution of purse or award;

8.5.g.4. place a permit holder on probation;

8.5.g.5. suspend a permit or racing privileges for an indefinite or fixed period;

8.5.g.6. revoke a permit; or

8.5.g.7. exclude from grounds under the jurisdiction of the Racing Commission.

8.5.h. No racing official other than the stewards may impose disciplinary action against a permit holder. The starter may recommend disciplinary action to the stewards.

8.5.i. The stewards shall submit a copy of every ruling to the Racing Commission.

8.5.j. If the stewards determine that a ruling was issued in error, any disciplinary action imposed in connection with such ruling may be rescinded by the stewards.

8.5.k. A stewards' ruling shall not prevent the Racing Commission from modifying the penalty or penalties imposed.

8.5.*l*. The stewards may refer any matter to the Racing Commission and may include recommendations for disposition. The absence of a stewards' referral shall not preclude Racing Commission action in any matter.

8.5.m. Purses, prizes, awards, and trophies shall be redistributed if the stewards or Racing Commission order a change in the official order of finish.

8.5.n. All fines imposed by the stewards shall be paid to the Racing Commission within seven (7) calendar days after the ruling is issued, unless otherwise ordered by the stewards.

8.5.o. No person shall assume or pay, directly or indirectly, a fine imposed by the stewards or the Racing Commission upon another person.

8.5.p. The stewards have the authority to fine or suspend persons guilty of violating the written policies, rules or regulations of the association. Such written policies must be filed with the stewards and displayed in the association's racing secretary's office. Any written policies, rules or regulations of the association that conflict with this rule or the laws of this state governing racing are null and void.

8.6. Stewards' Presence. The following provisions apply to the presence of the stewards:

8.6.a. 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 (1) or more stewards shall be on duty from the time the association's racing secretary's office opens until the entries are closed.

8.6.b. Three (3) stewards shall be present in the stewards' stand during the running of each race.

8.7. Order of Finish for Pari-Mutuel Wagering. The decision of the stewards as to the official order of finish, including the disqualification of a horse or horses as a result of any event occurring during the running of the race, shall be final for purposes of distribution of the pari-mutuel wagering pool.

8.8. Cancel Wagering. The stewards have the authority to cancel wagering on an individual betting interest or on an entire race and also have the authority to cancel a pari-mutuel pool for a race or races, if such action is

necessary to protect the integrity of pari-mutuel wagering.

8.9. Records and Reports. The stewards shall maintain a log of the stewards' official activities. The log shall 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 shall be available at all times for inspection by the Racing Commission or its designees and by anyone appealing a stewards' ruling to the Racing Commission.

8.10. Stewards' List. The following provisions apply to the stewards's list:

8.10.a. The stewards shall maintain a stewards' list which shall be posted in the office of association's racing secretary. The stewards' list shall contain a list of the thoroughbreds which are ineligible to be entered in a race because of poor or inconsistent performance or behavior on the racetrack that endangers the health or safety of other participants in racing.

8.10.b. The stewards may place a thoroughbred on the stewards' list when there exists a question as to the exact identification or ownership of the thoroughbred.

8.10.c. A thoroughbred which has been placed on the stewards' list because of inconsistent performance or behavior, may be removed from the stewards' list when, in the opinion of the stewards, the thoroughbred can satisfactorily perform competitively in a race without endangering the health or safety of other participants in racing.

8.10.d. A thoroughbred which has been placed on the stewards' list because of questions as to the exact identification or ownership of the thoroughbred, may be removed from the stewards' list when, in the opinion of the stewards, proof of exact identification and/or ownership has been established.

§178-1-9. Racing Secretary.

9.1. General Authority. The following provisions apply to the general authority of the association's racing secretary:

9.1.a. The association's racing secretary or his or her assistants, 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 this rule.

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

9.1.c. 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, and shall disburse all receipts of money to any person that is to receive any money.

9.2. Certificates. The racing secretary or his designees shall be responsible for receiving, inspecting and safeguarding the foal and health certificates, Coggins, and other documents of eligibility, for all horses competing at the track or stabled on the grounds.

9.3. Allocation of Stalls. The racing secretary or his designee shall assign stall applicants such stabling as is deemed proper and maintain a record of arrivals and departures of all horses stabled on association grounds.

9.4. Conditions. The following provisions apply to the association's racing

secretary's authority over the conditions of races:

9.4.a. The racing secretary shall establish the conditions and eligibility for entering races and cause them to be published to owners, trainers and the Racing Commission and posted in the racing secretary's office.

9.4.b. For the purpose of establishing conditions, winnings shall be considered to include all monies and prizes won up to the time of the start of a race.

9.4.c. Winnings during the year shall be calculated by the racing secretary from the preceding January 1, unless otherwise prescribed by the conditions of the race.

9.5. Daily Program. The following provisions apply to the association's racing secretary's duties and responsibilities regarding the daily program:

9.5.a. The association's racing secretary shall compile an official program for each racing day which shall contain the names of the thoroughbreds 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.

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

9.5.c. 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.

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

9.6. Stakes and Entrance Money Records. The association's racing secretary shall be the caretaker of the permanent records of all stakes and shall verify that all entrance monies due are paid prior to entry for races conducted at the meeting.

§178-1-10. Horsemen's Bookkeeper.

10.1. General Authority. The horsemen's bookkeeper shall maintain the records and accounts and perform the duties described in this section and maintain any other records and accounts and perform any other duties prescribed by the association and the Racing Commission.

10.2. Records. The following provisions apply to the records maintained by the horsemen's bookkeeper:

10.2.a. 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 thoroughbred owner, trainer or jockey participating at the race meeting who has funds due or on deposit in the horsemen's account.

10.2.b. The records shall include a file of all required statements of partnerships, syndicates, corporations, assignments of interest, lease agreements and registrations of authorized agents.

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

10.2.d. 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.

10.2.e. The association licensee is subject to disciplinary action by the Racing Commission for any violations of or non-compliance with the provisions of this rule.

10.3. Payment of Purses. The following provisions apply to the payment of purses:

10.3.a. 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.

10.3.b. The horsemen's bookkeeper may accept monies due belonging to other organizations or recognized meetings, provided prompt return is made to the organization to which the money is due.

10.3.c. The horsemen's bookkeeper shall disburse the purse of each race and all stakes, entrance money, jockey fees and purchase money in claiming races, along with all applicable taxes, upon request, within forty-eight (48) hours of receipt of notification that all tests with respect to such races have cleared the drug testing laboratory(ies) of the official chemist(s) as reported by the stewards or the Racing Commission, except that minimum jockey mount fees may be disbursed prior to notification that the tests have cleared the testing laboratory(ies).

10.3.d. In the event a protest or appeal has been filed with the stewards or the Racing Commission, the horsemen's bookkeeper shall disburse the purse within forty-eight (48) hours of receipt of a dismissal or a final order disposing of such protest or appeal.

10.4. Holder of claim against thoroughbred. The holder of a claim whether it is a mortgage, a bill of sale or lien of any kind against a thoroughbred, shall file the claim with the horsemen's bookkeeper prior to the time the thoroughbred starts. The holder of a claim who fails to do so forfeits his or her rights in the winnings of the thoroughbred prior to the time his or her claim is properly filed.

10.5. Outstanding accounts. Owners having unpaid jockey or other fees at the close of a race meeting, shall be billed by the horsemen's bookkeeper within twenty (20) days of the close of their race meet, with a duplicate copy of a bill to the trainer. All owners must pay their accounts within thirty (30) days from billing dates. At the expiration of the thirty (30) day period, the association shall notify the Racing Commission or the stewards, in writing, of all delinquent accounts, at which time all owners with outstanding accounts may have their occupational permits suspended by the stewards until the fees are paid.

§178-1-11. Paddock Judge.

11.1. General Authority. The paddock judge shall:

11.1.a. supervise the assembly of thoroughbreds in the paddock no later than fifteen (15) minutes before the scheduled post time for each race;

11.1.b. maintain a written record of all equipment, inspect all equipment of each thoroughbred saddled, and report any change thereof to the stewards;

11.1.c. prohibit any change of equipment without the approval of the stewards;

11.1.d. ensure that the saddling of all thoroughbreds is orderly, open to public view, free from public interference, and that thoroughbreds are mounted at the same time, and leave the paddock for the post in proper sequence;

11.1.e. supervise paddock schooling of all thoroughbreds approved for such by the stewards;

11.1.f. report to the stewards any observed cruelty to a thoroughbred;

11.1.g. ensure that only properly authorized persons are permitted in the paddock; and

11.1.h. report to the stewards any unusual or illegal activities.

11.2. Paddock Judge's List. The following provisions apply to the paddock judge's list:

11.2.a. The paddock judge shall maintain a list of thoroughbreds which shall not be entered in a race because of poor or inconsistent behavior in the paddock that endangers the health or safety of other participants in racing. The owner, trainer or their designee shall be verbally notified by the paddock judge if his or horse is placed on the paddock judge's list.

11.2.b. Upon request, the paddock judge shall provide a copy of the list to the stewards.

11.2.c. To be removed from the paddock judge's list, a thoroughbred must be schooled in the paddock and demonstrate to the satisfaction of the paddock judge and the stewards that the thoroughbred is capable of performing safely in the paddock.

§178-1-12. Horse Identifier.

12.1. General Authority. The horse identifier shall:

12.1.a. when required, ensure the safekeeping of registration certificates held at the racetrack for thoroughbreds stabled and/or racing on association grounds;

12.1.b. inspect documents of ownership, registration or breeding necessary to ensure the proper identification of each thoroughbred scheduled to compete at a race meeting;

12.1.c. examine every starter in the paddock for sex, color, markings and lip tattoo, microchip (ISO 11784), freeze brand or other identification method approved by the appropriate breed registry and the Racing Commission for comparison with its registration certificate to verify the thoroughbred's identity; and,

12.1.d. supervise the tattooing, microchip implanting, freeze branding or other method of identification approved by the appropriate breed registry and the Racing Commission for identification of any thoroughbred located on association grounds.

12.2. Report of Violations. The identification of thoroughbreds shall be made by the horse identifier who shall report any irregularities to the paddock judge and stewards.

12.3. Fraud or attempted fraud in the identification of a thoroughbred. Any person attempting to establish the identity of a thoroughbred or its ownership is 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.

§178-1-13. Clerk of Scales.

13.1. General Authority. The clerk of scales shall:

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

13.1.b. verify that all such jockeys have a current jockey's permit issued by the Racing Commission;

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

13.1.d. oversee the security of the jockeys' room including the conduct of the jockeys and their attendants;

13.1.e. promptly report to the stewards any infraction of the rules with respect to weight, weighing, riding equipment, deficiencies in equipment, or conduct;

13.1.f. assist the jockey room custodian;

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

13.1.h. maintain the record of applicable winning races on all apprentice jockey certificates at the meeting;

13.1.i. release apprentice jockey certificates, upon the jockey's departure or upon the conclusion of the race meet;

13.1.j. assume the duties of the jockey room custodian in his or her absence;

13.1.k. cause any overweight to be displayed immediately to the public and cause this information to be immediately announced over the public address system by the announcer; and,

13.1.*l.* use reasonable efforts to verify that safety equipment required to be worn by jockeys is worn.

§178-1-14. Jockey Room Custodian.

14.1. General Authority. The jockey room custodian shall:

14.1.a. maintain order, decorum, and cleanliness in the jockey and scale rooms;

14.1.b. assist the clerk of the scales in the performances of his or her duties;

14.1.c. ascertain that no persons, other than racing officials, members of the Racing Commission or its representatives, representatives of jockeys, and necessary jockey room attendants are admitted to the jockey room on a day of racing without the express permission of the stewards for each time of entry;

14.1.d. oversee the care and storage of all racing colors;

14.1.e. oversee the jockeys' attendants and arrange their rotation among jockeys in the matter of weighing out;

14.1.f. 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;

14.1.g. report any irregularities to the stewards that occur in the jockey room;

14.1.h. ascertain that jockeys are neat in appearance and attired in keeping with this rule when they leave the room to ride in a race;

14.1.i. notify the jockeys that it is time to go directly to the paddock and notify the stewards of any jockey not in compliance; and,

14.1.j. ensure that the jockeys' room is properly equipped and inform the stewards and association of any deficiencies.

14.2. Prohibited conduct. The jockey room custodian shall not lend money to any jockey or any other person in the jockey room and shall not sell or exchange raffle tickets. The jockey room custodian shall not 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.

§178-1-15. Starter.

15.1. General Authority. The starter shall:

15.1.a. have complete jurisdiction over the starting gate, the starting of thoroughbreds and the authority to give orders not in conflict with the rules of racing as may be required to ensure all participants an equal opportunity to a fair start;

15.1.b. appoint and supervise assistant starters who have demonstrated they are adequately trained to safely handle thoroughbreds in the starting gate. In emergency situations, the starter may appoint qualified individuals to act as substitute assistant starters;

15.1.c. ensure that at least one assistant starter is available for each thoroughbred in a race, unless permission is otherwise granted by the stewards;

15.1.d. assign the starting gate stall positions to assistant starters and notify the assistant starters of their respective stall positions before post time for the race;

15.1.e. assess the ability of each person applying for a jockey's permit in breaking from the starting gate and working a thoroughbred in the company of other thoroughbreds, and make such assessment known to the stewards;

15.1.f. load thoroughbreds into their positions in the starting gate in alternating sequence, with the thoroughbred assigned to the post closest to the inside rail and the thoroughbred assigned to the post position nearest to the middle of the field being loaded first, and so on, until the field is properly loaded. When there are less than seven (7) thoroughbreds running a race, they may be loaded in the starting gate in the order of their positions beginning from the inside rail. Vicious and unruly horses may be loaded out of sequence in the discretion of the starter; and

15.1.g. assess any thoroughbred that has not run a race within the preceding six (6) months and determine whether or not it can break out of the gate satisfactorily.

15.2. Reloading of thoroughbreds. If a thoroughbred or thoroughbreds 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 thoroughbred is not immediately taken in hand by the outrider and brought back for reloading, the starter may unload the remaining thoroughbreds in the gate and reload in their proper order when the runaway thoroughbred is brought back in position for loading.

15.3. Starter's List. No thoroughbred shall be permitted to start in a race unless approval is given by the starter. The starter shall maintain a starter's list of all thoroughbreds which are ineligible to be entered in any race because of poor or inconsistent behavior or performance in the starting gate. A thoroughbred on the starter's list shall be refused entry until it has demonstrated to the starter that it has been satisfactorily schooled in the gate and can be removed from the starter's list. Schooling shall be under the direct supervision of the starter or an assistant. The starter shall provide copies of the starter's list to the stewards and the association's racing secretary, including information pertaining to the thoroughbreds that are schooled sufficiently to be permitted to run.

15.4. Assistant Starters. With respect to an official race, the assistant starters shall not:

15.4.a. handle or take charge of any thoroughbred in the starting gate without the expressed permission of the starter;

15.4.b. impede the start of a race;

15.4.c. apply a whip or other device, with the exception of steward-approved twitches, to assist in loading a thoroughbred into the starting gate;

15.4.d. slap, boot or otherwise dispatch a thoroughbred from the starting gate;

15.4.e. strike or use abusive language to a jockey; or

15.4.f. accept or solicit any gratuity or payment other than his/her regular salary, directly or indirectly, for services in starting a race.

15.5. Report Violations. The starter and assistant starters shall report all unauthorized activities to the stewards.

§178-1-16. Timer/Clocker.

16.1. General Authority of the Timer. The following provisions shall apply to the general authority of the timer:

16.1.a. The timer shall accurately record the time elapsed between the start and finish of each race.

16.1.b. The time shall be recorded from the instant that the first horse leaves the point from which the distance is measured until the first horse reaches the finish line.

16.1.c. At the end of a race, the timer shall post the official running time on the infield totalizator board on instruction by the stewards.

16.1.d. At a racetrack equipped with an appropriate infield totalizator board, the timer shall post the quarter times (splits) for thoroughbred races in fractions as a race is being run.

16.1.e. For back-up purposes, the timer shall also use a stopwatch to time all races. In time trials, the timer shall ensure that at least three stopwatches are used by the stewards or their designees.

16.1.f. The timer shall maintain a written record of fractional and finish times of each race and have the same available for inspection by the stewards or the Racing Commission on request.

16.2. General Authority of the Clocker. The following provisions apply to the general authority of the clocker:

16.2.a. The clocker shall be present during training hours at each track on association grounds, which is open for training, to identify each thoroughbred working out and to accurately record the distances and times of each thoroughbred's workout.

16.2.b. Each day, the clocker shall prepare a list of workouts that describes the name of each thoroughbred which worked along with the distance and time of each thoroughbred's workout.

16.2.c. At the conclusion of training hours, the clocker shall deliver a copy of the list of workouts to the stewards and the association's racing secretary.

§178-1-17. Placing Judges.

17.1. General Authority. The following provisions apply to the general authority of the placing judges:

17.1.a. The placing judges shall occupy the judges' stand at the time the thoroughbreds pass the finish line and indicate the order of finish of the thoroughbreds. If in doubt of the proper order of finish, they may delay posting the result until after they examine the photo of the finish of the race to determine the positions of the thoroughbreds. Decisions are final, unless an objection to the winner or any thoroughbred officially placed is made and sustained. Nothing in this section prevents the placing judges from correcting any mistake. The correction is subject to confirmation by the stewards before the official result is posted.

17.1.b. The placing judges shall determine the order of finishing of as many thoroughbreds as they consider proper, but never less than five (5), if five (5) or more are racing. When the placing judges differ on the order of finish the majority governs. The placing judges shall file the finish of each race with the association's racing secretary or his or her assistants and with the Racing Commission.

17.2. Dead Heats. The following provisions apply to dead heats:

17.2.a. In the event the placing judges determine that two (2) or more thoroughbreds finished the race simultaneously and cannot be separated as to their order of finish, a dead heat shall, with the approval of the stewards, be declared.

17.2.b. In the event one or more of the first four (4) finishers of a race are involved in a dead heat, the placing judges shall publically post the results and cause the numbers of the thoroughbred or thoroughbreds involved to be published.

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

18.1. General. The Racing Commission veterinarian(s) shall:

18.1.a. be employed by the Racing Commission;

18.1.b. be a graduate veterinarian and be licensed to practice veterinary medicine in the state of West Virginia;

18.1.c. be qualified to objectively and competently perform the regulatory duties described herein;

18.1.d. refuse employment or payment, directly or indirectly, from any thoroughbred owner or trainer of a thoroughbred racing or intending to race in this jurisdiction

while employed as a Racing Commission veterinarian;

18.1.e. refrain from directly treating or prescribing for any thoroughbred under his/her jurisdiction except in cases of emergency, accident or injury;

18.1.f. have no employment history or business relationship prior to or during employment as the Racing Commission veterinarian that could constitute a conflict of interest or impede in the performance of official duties.

18.1.g. recommend to the stewards any thoroughbred deemed unsafe to be raced, or a thoroughbred that it would be inhumane to allow to race;

18.1.h. conduct pre-race inspections on all potential starters on race day;

18.1.i. inspect any thoroughbred when there is a question as to the physical condition of such thoroughbred independent of the thoroughbred's entry status;

18.1.j. be present in the paddock during saddling; on the racetrack during the post parade; and, at the starting gate until the thoroughbreds are dispatched from the starting gate for the race;

18.1.k. recommend to the stewards the scratching of any thoroughbred that is, in the opinion of the Racing Commission veterinarian, injured, ill, or otherwise unable to compete due to a medical or health-related condition;

18.1.*l*. inspect any thoroughbred which appears in physical distress during the race or at the finish of the race; and report such thoroughbred together with his/her opinion as to the cause of the distress to the stewards;

18.1.m. provide emergency medical care to horses injured racing and effect case transfer to the practicing veterinarian;

18.1.n. be authorized to humanely destroy any thoroughbred deemed to be so seriously injured that it is in the best interests of the thoroughbred to so act;

18.1.o. report to the Racing Commission the names of all thoroughbreds humanely destroyed or which otherwise expire at the meeting or on association grounds and the reasons therefore;

18.1.p. maintain all required records of postmortem examinations performed on thoroughbreds which have died within the jurisdiction of the Racing Commission;

18.1.q. maintain the veterinarians' list of thoroughbreds ineligible to race and cause notification to be provided to a horse's trainer that a horse trained by him or her is on the veterinarians' list;

18.1.r. supervise, control and establish any necessary procedures for the operation of the test barn;

18.1.s. supervise the taking of all specimens for testing according to procedures approved by the Racing Commission;

18.1.t. provide proper safeguards in the handling of all laboratory specimens to prevent tampering, confusion, or contamination and assure sample integrity;

18.1.u. provide the stewards with a written statement regarding the nature and seriousness of all laboratory reports of prohibited substances in equine samples.

18.1.v. have jurisdiction over the practicing veterinarians on the association's grounds for the purpose of these rules;

18.1.w. review and consult with the applicants and the stewards/Racing Commission regarding permit applications of practicing veterinarians, veterinary technicians or assistants, vendors of medical supplies and equipment, non-veterinarian health care providers;

18.1.x. cooperate with practicing veterinarians and other regulatory agencies to take measures to control communicable and/or reportable equine diseases; and

18.1.y. keep current and/or update the Jockey Club Equine Injury Database, if the association is a participant in the database.

18.2. Veterinary Technicians. The Racing Commission may employ veterinary technicians registered by the West Virginia Board of Veterinary Medicine or other veterinary assistants qualified to assist the Racing Commission veterinarians. A veterinary technician or veterinary assistant employed by the Racing Commission shall perform all lawful duties and shall act under the direct supervision of the Racing Commission veterinarian(s).

PART 4. ISSUANCE OF LICENSES AND DUTIES OF LICENSEES

§178-1-19. License Required.

19.1. Any individual, partnership, firm, association, corporation or other entity or organization of whatever character or description wishing to obtain a license to conduct a race meeting with pari-mutuel wagering during any calendar year shall file a license application with the Racing Commission on forms prescribed by the Racing Commission.

19.2. Such application shall disclose, but not be limited to, the following:

19.2.a. If the applicant is an individual, the full name and address of the applicant;

19.2.b. If the applicant is a partnership, firm or association, the full name and address of the each partner or member thereof and the name of the partnership, firm or association and its address;

19.2.c. If the applicant is a corporation, its name, the state of its incorporation, its address, the full name and address of each officer and director thereof, and if a foreign corporation, whether it is qualified to do business in the state of West Virginia;

19.2.d. The dates such applicant intends to hold or conduct each horse race meeting during the calendar year;

19.2.e. The location of the horse racetrack, place or enclosure where such applicant proposes to hold or conduct such horse race meeting;

19.2.f. Whether the applicant, any partner, member, officer or director has previously applied for a license under West Virginia Code §§ 19-23-1 *et seq.* or for a similar license in this or any other state, and if so, whether such license was issued or refused, and, if issued, whether it was ever suspended or revoked;

19.2.g. If the applicant is an individual, his or her fingerprints; if the applicant is a partnership, firm or association, the fingerprints of each partner or each member; if the applicant is a corporation, the fingerprints of each officer and director. Such fingerprints shall be provided for examination by the West Virginia State Police Criminal Investigation Bureau and the Federal Bureau of Investigation

and shall be accompanied by a signed authorization for the release of information by those agencies;

19.2.h. Such other information as the Racing Commission may in its discretion reasonably require, including, but not limited to, satisfactory evidence that the applicant has the ability to pay all taxes due the state, purses, salaries of racing officials and other expenses incident to the horse race meeting for which a license is sought. If satisfactory evidence of ability to pay such expenses and fees cannot be furnished by the applicant, the Racing Commission may require a bond or other adequate security before the license is issued; and

19.2.i. A signed, notarized verification that the information contained on the application is true and accurate. Such verification shall be signed by the individual seeking the license; or, by a partner or member if the applicant is a partnership, firm or association; or, by an officer or director if the applicant is a corporation.

19.3. A license is neither transferrable nor assignable to any other person. The sale of the assets of an association requires the buyer to apply for a racing license from the Racing Commission if the buyer wishes to conduct a horse race meeting with pari-mutuel wagering in this state.

19.4. The Racing Commission shall promptly consider any application for a license. Based upon such application and any other information before it, the Racing Commission shall make and enter an order either approving or denying the application. If an application for a license is approved, the Racing Commission shall issue a license to conduct a horse race meeting, and shall designate on the face of the license the dates upon which the horse race meeting shall be held, the location of the horse racetrack, place or enclosure where the horse race meeting is to be held, and other information as the Racing Commission shall consider proper.

19.5. The Racing Commission may deny an application for a license or may suspend, revoke or otherwise discipline a license if it finds that the applicant or the licensee:

19.5.a. Has knowingly made a false statement of material fact in the application or has knowingly failed to disclose any information called for in the application;

19.5.b. Is or has been guilty of any corrupt or fraudulent act, practice or conduct in connection with any horse race meeting in this or any other state;

19.5.c. Is or has been convicted, within ten years prior to the date of the application, of an offense which under the laws of this state, of any other state or of the United States of America, shall constitute a felony or a crime involving moral turpitude;

19.5.d. Has failed to comply with West Virginia Code §§ 19-23-1 *et seq.* or any rules of the Racing Commission;

19.5.e. Has had a license to hold or conduct a horse race meeting denied for just cause, suspended or revoked in any other state;

19.5.f. Has defaulted in the payment of any obligation or debt due to the state of West Virginia under West Virginia Code §§ 19-23-1 *et seq.*

19.5.g. Is, if a corporation, neither incorporated under the laws of this state nor qualified to do business in this state; or

19.5.h. Has failed to furnish a bond or other adequate security, if the same is

required by the Racing Commission under West Virginia Code § 19-23-7(b) and this rule.

19.6. In issuing licenses for horse race meetings at the various horse racetracks in this state, the Racing Commission shall consider the horse racing circuits with which the horse racetracks in this state are associated or contiguous to, and shall also consider dates which are calculated to increase the tax revenues accruing from horse racing.

19.7. If a horse racetrack, place or enclosure specified on the face of the license as the licensee's location for horse racing becomes unsuitable because of flood, fire, or other catastrophe, or cannot be used for any reason, the Racing Commission may, upon application, authorize the horse race meeting, or any remaining portion thereof, to be conducted at any other racetrack, place or enclosure available for that purpose, provided that the owner of the racetrack, place or enclosure willingly consents to the use thereof.

§178-1-20. General Duty.

20.1. An association, its officers, directors, officials and employees shall abide by and enforce the laws of this state governing racing and the rules and orders of the Commission and stewards and failure to do so may result in the imposition of disciplinary action against the association's license and/or against the occupational permit held by an officer, director, official and/or employee of the association.

20.2. No individual who has a direct or indirect financial interest of twenty percent (20%) or more in a partnership, firm, association, corporation or other entity or organization of whatever character or description licensed by the Racing Commission to conduct horse racing and pari-mutuel wagering 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.

20.3. If the association is a corporation, it shall, upon request, provide a list of all stockholders or shareholders to the Racing Commission.

20.4. Thirty (30) days before conducting a stakes race, each association shall submit to the Racing Commission the conditions for all stakes races it proposes to hold, together with the stake, purse or reward, all of which are subject to the approval of the Racing Commission.

§178-1-21. Financial Requirements.

21.1. Insurer of the Race Meeting. The following provisions apply to the association's duty as insurer of each race meeting:

21.1.a. 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.

21.1.b. An association is obligated as part of its duties to ensure that the amounts retained from the pari-mutuel handles are distributed according to the West Virginia Code and Racing Commission rules.

21.1.c. An association 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.

21.1.d. The association shall provide proof of liability insurance coverage upon request of the Racing Commission.

21.2. Financial Reports. Each licensee shall file audited financial statements on or before the 30th of April of each year, unless otherwise authorized by the Racing Commission. These financial statements will cover 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. The financial statements shall be prepared in accordance with generally accepted accounting principles and shall be accompanied by the report of an independent certified public accountant. If the association is a corporation, it shall provide the Racing Commission with a copy of its annual audited, consolidated financial statements contained in the corporation's annual report to its shareholders and, if applicable, as submitted to the United States Securities and Exchange Commission.

§178-1-22. Facilities and Equipment.

22.1. Facilities and Equipment for Patrons and Permit Holders. The following provisions apply to the facilities and equipment that an association must provide for patrons and permit holders:

22.1.a. The association shall provide equipment for fingerprinting and photographing all occupational permit holders and shall provide the necessary equipment to coat the occupational permit in plastic with the picture of the permit holder.

22.1.b. The association shall furnish and maintain at least one (1) ambulance for the exclusive use of persons, staffed with at least two (2) emergency medical technicians, one of whom shall be a certified paramedic, 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 or be open for training until the ambulance is replaced, and ready for immediate duty, to be placed at a readily available location to the racing strip, so that no time may be lost in answering calls. Unless otherwise approved by the Racing Commission or the stewards, an ambulance shall follow the mounted horses at a safe distance during the running of the race.

22.1.c. The association shall equip and maintain at its racetrack at least one (1) first aid room 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/or a registered nurse during all racing hours.

22.1.d. The 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.

22.1.e. The association shall provide a supply of free drinking water.

22.1.f. The association shall maintain adequate restroom facilities on association grounds and ensure the safety and cleanliness of the restroom facilities at all times.

22.1.g. The association shall designate an office and suitable parking spaces for the exclusive use of the Racing Commission, its employees and representatives. The association shall offer sufficient office space for

private consultation and necessary office equipment. The office shall be equipped with a telephone and shall also have sufficient space for secure, locked storage for Racing Commission records and supplies. The key to such storage shall be available only to the Racing Commission and/or the stewards. The association shall also provide sufficient office space for the Racing Commission license clerk(s), investigator(s), security officer(s) and any other Racing Commission personnel, as requested by the Racing Commission.

22.1.h. 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.

22.2. Officials' Stands. Stands for placing judges, clockers, timers, and stewards shall be maintained in positions commanding an uninterrupted view of the entire racing strip and shall be appropriately maintained and furnished. The stands are subject to approval by the Racing Commission.

22.3. Audio and Visual Equipment. The following provisions apply to the audio and visual equipment required for racing:

22.3.a. The association shall provide and maintain in good working order a communication system between the stewards' stand; office of the association's racing secretary; tote room; jockeys' room; paddock; test barn; starting gate; clocker's/timer's stand; Racing Commission veterinarian(s); track announcer; location of the ambulances (equine and human); and other locations and persons designated by the Commission.

22.3.b. A camera or electronic photofinish device selected by the association conducting the meeting shall be approved by the Racing Commission and shall be used to make photographs or images of the horses at the finish to assist the placing judges in determining their positions as exclusively indicated by the noses of the horses. On request by the Racing Commission, the association shall provide, without cost, photographs or images of a finish to the Commission or its representatives. Finish photographs or images of each race shall be maintained by the association for not less than one (1) month after the end of the race meeting, or such other period as may be requested by the stewards or the Racing Commission.

22.3.c. The association shall install and use a video recording system approved by the Racing Commission with not fewer than three (3) cameras operating from positions designated by the Racing Commission to provide clear panoramic and head-on views and recordings of each race from start to finish. Separate monitors, which simultaneously display the images received from each camera and are capable of simultaneously displaying a synchronized view of the recordings of each race for review shall be provided in the stewards' stand. On request by the Racing Commission, the association shall provide, without cost, a copy of the video recording of each race to the Commission or its representatives. Video recordings made during each race shall be retained by the association for not less than one (1) month after the end of the race meeting, or such other period as may be requested by the stewards or the Racing Commission.

22.3.d. On all racetracks, the official photographer for the association shall be required to hold an occupational permit issued by the Racing Commission. In all cases when a still picture is taken by the official photographer, he or she shall direct his or her camera at a point away from the finish line unless otherwise

approved by the stewards or the Racing Commission. No photographer, other than the official photographer, shall be permitted on the racetrack, unless permission is granted by the stewards or the Racing Commission; and then only for pictures that are specifically requested and in places as are approved by the stewards or the Racing Commission.

22.4. Rails. The following provisions to the rails required for racing:

22.4.a. Racetracks, including turf tracks, shall have inside and outside rails, including gap rails, designed, constructed and maintained to provide for the safety of jockeys and horses. The design and construction of rails must be approved by the Racing Commission prior to the first race meeting at the track.

22.4.b. All potential obstructions 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 directed by the Racing Commission.

22.5. Starting Gates. Each racing association shall provide and maintain at least two operable padded starting gates on every race day of its meeting. 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 periodic inspections of the starting gates as may be required by the Racing Commission.

22.6. Distance Markers. The following provisions apply to the distance markers required for racing:

22.6.a. An association shall provide starting point markers and distance poles in a size and position that is clearly seen from the stewards' stand.

22.6.b. The starting point markers and distance poles must be marked as follows:

22.6.b.1. 1/4 POLES – Red and White;

22.6.b.2. 1/8 POLES – Green and White; and

22.6.b.3. 1/16 POLES – Black and White.

22.7. Lighting. The following provisions apply to the lighting required for racing:

22.7.a. An association shall provide lighting for the racetrack and the patron facilities that is adequate to ensure the safety and security of the patrons, permit holders and horses. The association shall also provide lighting to ensure the proper operation of video recording and photofinish equipment.

22.7.b. 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.

22.7.c. An association shall provide adequate lighting in the stable areas as required by the Racing Commission.

22.8. Equine Ambulance. The following provisions apply to the equine ambulance required for racing:

22.8.a. An association shall provide an equine ambulance staffed by trained personnel on association grounds on each day that the racetrack is open for racing or training.

22.8.b. The ambulance must be properly ventilated and kept at an entrance to the racing strip when not in use.

22.8.c. The ambulance must be a covered vehicle that is low to the ground and large enough to accommodate a horse in distress. The ambulance must be able to:

22.8.c.1. navigate on the racetrack during all weather conditions; and

22.8.c.2. transport a horse off the association grounds.

22.8.d. The ambulance must be equipped with:

22.8.d.1. large, portable screens to shield a horse from public view;

22.8.d.2. ramps to facilitate loading a horse;

22.8.d.3. adequate means of loading a horse that is down;

22.8.d.4. a padded interior;

22.8.d.5. a movable partition to initially provide more room to load a horse and to later restrict a horse's movement;

22.8.d.6. a shielded area for the person who is attending to the horse; and

22.8.d.7. an adequate area for the storage of water and veterinary drugs and equipment.

22.8.e. An association may not conduct a race unless an equine ambulance or a substitute approved by a Racing Commission veterinarian is readily available.

22.8.f. The equine ambulance, its supplies and attendants and the operating procedures for the equine ambulance must be approved by a Racing Commission veterinarian.

22.9. Barns. The following provisions apply to the barn area required for racing:

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

22.9.b. 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 remove or cause to be removed all bedding and manure from the stable area.

22.10. Test Barn. The following provisions apply to the test barn required for racing:

22.10.a. The association shall provide a suitable building, approved by the Racing Commission, for a test barn. The test barn shall be under the supervision of the Racing Commission veterinarian(s), for the purpose of collecting specimens for any test required by the Racing Commission.

22.10.b. The test barn shall be equipped with:

22.10.b.1. a walk area that is large enough to accommodate four (4) horses;

22.10.b.2. at least four (4) enclosed stalls that permit observation of the specimen collection process and provide for the protection of collection personnel;

22.10.b.3. facilities and equipment for the collection, identification, and storage of specimens;

22.10.b.4. a wash rack or wash stall that is large enough to accommodate two (2) horses at the same time;

22.10.b.5. hot and cold running water;

22.10.b.6. equipment for washing and cooling horses;

22.10.b.7. clean water buckets for each horse; and

22.10.b.8. any other items required by the Racing Commission.

22.10.c. The test barn shall be kept locked at all times when not in use. The only persons authorized to have keys shall be the racetrack general manager or his or her designee and the Racing Commission veterinarian(s) and their designees.

§178-1-23. Operations.

23.1. Security. The following provisions apply to the security required on association grounds:

23.1.a. An association conducting a race meeting shall maintain security controls over its grounds.

23.1.b. An association shall establish a system or method of issuing credentials or passes to restrict access to its restricted areas, which includes but is not limited to the stable area and paddock, and to ensure that all participants at its race meeting hold permits as required by this rule.

23.1.c. An association shall prevent access to and shall remove or cause to be removed from its restricted areas, which includes but is not limited to the stable area and paddock, any person who does not have an occupational permit, or who has not been issued a visitor's pass or other identifying credential, or whose presence in such restricted area is unauthorized.

23.1.d. Upon request, a written report shall be made to the Racing Commission or the stewards by the director of the security department at each race track, which details any and all occurrences or incidents on association grounds. This report shall include the name of all persons involved in the occurrences or incidents and the circumstances of the occurrences or incidents.

23.1.e. It is the responsibility of the racing association conducting a meeting under a license issued by the Racing Commission to assure that all persons under the age of sixteen (16) years are properly supervised by an adult when admitted to the association grounds. Persons under the age of eighteen (18) years may not be admitted in a restricted area without the written permission of the stewards, except in case of an emergency. Violation of this rule may result in a fine or other discipline against a licensee and/or occupational permit holder when warranted in the discretion of the stewards and/or the Racing Commission.

23.2. Fire Prevention. The following provisions apply to fire prevention on association grounds:

23.2.a. An association shall develop and implement a program for fire prevention on association grounds. An association shall instruct employees working on association grounds of the procedures for fire prevention.

23.2.b. No person shall:

23.2.b.1. smoke in stalls, feed rooms, under shed rows or in any other "no smoking" area of the association's grounds as identified by the association or the Racing Commission;

23.2.b.2. burn open fires or oil and gas lamps in the stable area;

23.2.b.3. leave unattended any electrical appliance that is plugged-in to an electrical outlet, with the exception of a fan approved by the association;

23.2.b.4. permit horses to come within reach of electrical outlets or cords;

23.2.b.5. store flammable materials such as cleaning fluids or solvents in the stable area; or

23.2.b.6. lock a stall which is occupied by a horse.

23.3. Performances. The following provisions apply to performances:

23.3.a. The minimum number of races per day at all licensed racetracks shall be eight (8), the maximum number of races per day shall be ten (10), unless otherwise authorized by the Racing Commission.

23.3.b. The Racing Commission shall approve the post time for the first race of each race day. Each race after the first race of each race day shall be run at intervals to be approved by the Racing Commission. In the event of an emergency, the stewards may approve the alteration of the post time for the first race of each race day and the intervals at which other races shall be run.

PART 5. ISSUANCE OF PERMITS AND DUTIES OF PERMIT HOLDERS

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

24.1. Permit Required. The following provisions apply to permit requirements:

24.1.a. Racing participants and personnel; racing officials (excluding those employed by the Racing Commission); and, persons employed by the association or employed by a person or concern contracting with or approved by the association or Commission to provide a service or commodity on association grounds, shall have a valid occupational permit issued by the Racing Commission, unless otherwise specifically exempt from this requirement.

24.1.b. Applicants for occupational permits shall file a completed application on a form prescribed by the Racing Commission with the license clerk stationed at the racetrack. Applications shall be reviewed by the stewards who may issue or deny the permit; hold the application for further investigation; or, refer it to the Racing Commission for a determination.

24.1.c. The Racing Commission may designate categories of permit applications that require a determination of issuance or denial by the Commission and not the stewards. The Racing Commission may require, however, that the stewards provide a recommendation as to the issuance or denial of any such permit application.

24.1.d. Applicants for occupational permits may be required to provide fingerprints for examination by the West Virginia State Police Criminal Investigation Bureau and the Federal Bureau of Investigation.

If fingerprints are required to be provided by an applicant, the applicant shall provide a signed authorization for the release of information by those agencies.

24.1.e. The fees that shall be paid to the Racing Commission for occupational permits issued effective for calendar year 2012 and thereafter are set forth in table 178-1 A at the end of this rule.

24.1.f. An occupational permit is neither transferable nor assignable to any other person.

24.1.g. The Racing Commission shall not grant an occupational permit to anyone under eighteen (18) years of age. An applicant may be required to submit a certified copy of his or her birth certificate in connection with his or her application for a permit.

24.1.h. The filing of an application for a permit shall authorize the Racing Commission to investigate criminal and employment records, to engage in interviews to determine the applicant's character and qualifications and to verify information provided by the applicant.

24.2. Consent to Search and Seizure. The following provisions apply to permit holders' consent to search and seizure as a condition of holding a permit:

24.2.a. Members of the Racing Commission, the stewards, the Racing Commission veterinarians, the Racing Commission security officer and Racing Commission investigators have the right to inspect and search any person on association grounds who has been granted an occupational permit by the Racing Commission, as well as any stables, rooms, trailers, vehicles or other places or things within the association grounds.

24.2.b. Members of the Racing Commission, the stewards, the Racing Commission veterinarian(s), the Racing Commission security officer and Racing Commission investigators have the right to seize any prohibited medication, drugs, paraphernalia or devices.

24.2.c. By accepting an occupational permit, all permit holders are deemed to consent to the search and seizure provided for by this section.

24.3. Substance Abuse/Addiction.

24.3.a. All permit holders shall be deemed to be exercising the privileges of their permit, and shall be subject to the requirements of this subsection when engaged in activities that could affect the outcome of a race or diminish the conditions of safety or decorum required in restricted areas or other areas of the association grounds.

24.3.b. It shall be a violation to exercise the privileges granted by a permit issued by the Racing Commission if the permit holder:

24.3.b.1. Is engaged in the illegal sale or distribution of alcohol or a controlled substance;

24.3.b.2. Possesses, without a valid prescription, a controlled substance;

24.3.b.3. Is addicted, having been determined to be so by a professional evaluation, to alcohol or other drugs and is not engaged in an abstinence-based program of recovery acceptable to the Racing Commission;

24.3.b.4. Has in his or her possession on association grounds any

equipment, products or materials of any kind which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled dangerous substance;

24.3.b.5. Refuses to submit to urine or drug testing, when notified that such testing is based on a random drug testing procedure; is based on reasonable suspicion that the person is using drugs or alcohol; or, is based on the permit holder's acting as if in an impaired condition; or

24.3.b.6. Presently has drugs (controlled substances) or alcohol in his or her body. With regard to alcohol, the results of a breathalyzer test showing a reading of more than .05 percent of alcohol in the blood shall be the criterion for a finding of alcohol present in the body. With regard to other controlled substances, presence of the drug in any quantity measured by the testing instrument establishes the presence of the drug for purposes of this paragraph.

24.3.c. At its discretion, the Racing Commission and/or the stewards may conduct random drug testing, as well as testing based on reasonable suspicion, in order to ensure safety on the racetrack.

24.3.d. When conducted, random drug testing shall apply, equally, to all permit holders who are, at the time of the random testing, exercising the privileges of their permit in such ways as may affect the outcome of a race or diminish the conditions of safety or decorum required in restricted areas or other areas of the association grounds.

24.3.e. No notice need be given as to the onset or cessation of random testing.

24.3.f. When a specimen or sample is collected from a permit holder for testing under this subsection, a sufficient sample shall be collected, when possible, to ensure a quantity for a the split sample so that a permit holder may request an independent analysis of the specimen or sample.

24.3.g. The Racing Commission and/or the stewards shall provide for a secure chain of custody for the sample to be made available to the permit holder.

24.3.h. All costs of initial testing under this subsection shall be at the expense of the racing association. However, should the results of a test come back positive, the costs of the test may be assessed against the permit holder, upon approval by the stewards. All costs for the testing of a specimen or sample portion made available for the permit holder shall be the financial responsibility of the requesting person.

24.3.i. If a permit holder refuses to submit to urine or drug testing under this subsection or if a permit holder tests positive, his or her permit may be summarily suspended at the discretion of the stewards and/or may be subject to other disciplinary action in accordance with this rule.

24.3.j. A permit holder who is a first time violator under this subsection shall be required to undergo a professional assessment before the stewards and/or the Racing Commission determine whether or not the permit holder's condition is such that he or she may hold a permit and participate in racing. In the discretion of the stewards and/or the Racing Commission, a first time violator may be required to produce a negative test result; may be required to submit to further testing; and/or

may be required to successfully complete a certified drug/alcohol rehabilitation program as a condition of holding a permit and participating in racing.

24.3.k. A permit holder who is a second time violator under this subsection shall be subject to suspension. The permit holder may not apply for reinstatement of his or her permit until such time as he or she has successfully completed a certified drug/alcohol rehabilitation program and has otherwise satisfied the Racing Commission and/or the stewards that he or she is fit to hold a permit.

24.3.*l.* A permit holder who is a third time violator under this subsection may be subject to revocation and may be deemed ineligible to apply for reinstatement of his or her permit for a period of time determined by the stewards and/or the Racing Commission. The Racing Commission and/or the stewards may determine what, if any, conditions a third time violator is required to meet in order to be considered for reinstatement of his or her permit.

24.4. Employer Responsibility. The following provisions apply to the responsibility of employers who are occupational permit holders:

24.4.a. 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 subject the employer's occupational permit to fine, suspension or other discipline.

24.4.b. No occupational permit holder may have in his or her employment, in any capacity, any employee less than eighteen (18) years of age.

24.5. Workers' Compensation. The following provisions apply to workers' compensation coverage for occupational permit holders who are employers:

24.5.a. All occupational permit holders who are employers shall carry workers' compensation insurance covering their employees, unless exempted by state law.

24.5.b. Occupational permit holders shall produce proof of coverage in the state of West Virginia or, if applicable, a letter of exemption from the West Virginia Insurance Commissioner or a notarized affidavit attesting that they have no employees, at the time of application for an occupational permit and may be required to produce proof of coverage or a letter of exemption or affidavit upon the request of the association or the stewards.

24.6. Financial Responsibility. The following provisions apply to the financial responsibility of occupational permit holders:

24.6.a. Applicants for occupational permits may be required to submit satisfactory evidence of financial responsibility.

24.6.b. After an occupational permit has been issued, the applicant shall maintain a record of financial responsibility during the period for which an occupational permit is issued.

24.7. Duration of Permit. The following provisions apply to the duration of occupational permits:

24.7.a. Every occupational permit is for one (1) year and expires on December 31 in the year in which it was issued, unless otherwise approved by the stewards or the Racing Commission.

24.7.b. An occupational permit holder who has been suspended and subsequently reinstated after the expiration of his or her occupational permit may not pursue his or her vocation until the stewards or the Racing Commission grants a new occupational permit.

24.8. Conflict of Interest. The stewards or the Racing Commission may deny, suspend or revoke an occupational permit if a conflict of interest exists or could exist as a result of the issuance or holding of the permit.

24.9. Permit Restrictions, Limitations and Conditions. The stewards or the Racing Commission may restrict, limit or impose any condition or conditions on an occupational permit that they consider necessary in their discretion to protect the best interests and integrity of racing.

24.10. Permit Denial. When the denial of an occupational permit has been ordered by the Racing Commission, the Racing Commission shall report the reasons for the denial to the applicant and shall further report the denial to the Association of Racing Commissioners International, Inc., so that other racing jurisdictions may be informed of the denial.

24.11. Grounds for Denial, Suspension or Revocation of Permit. The Racing Commission and/or the stewards may, in their discretion, refuse to issue or renew an occupational permit to an applicant, or may in their discretion suspend, revoke, or impose other disciplinary measures upon an occupational permit issued pursuant to this rule, if the applicant or permit holder:

24.11.a. has been convicted of a crime in any jurisdiction. In considering the conviction, the Racing Commission and/or the stewards shall examine:

24.11.a.1. the nexus, or relationship, between the crime committed and the qualifications, functions or duties necessary to engage in an occupation in the racing industry;

24.11.a.2. the nature and seriousness of the conduct;

24.11.a.3. the individual's conduct since the events leading to the conviction;

24.11.a.4. the individual's age and maturity at the time of the offense;

24.11.a.5. the amount of time that has elapsed since the conviction;

24.11.a.6. whether the conviction represented an isolated event;

24.11.a.7. whether the individual demonstrates any consciousness of wrongdoing or remorse regarding the wrongfulness of his or her conduct; and

24.11.a.8. any other factor the Racing Commission deems relevant to its inquiry.

24.11.b. has engaged in bookmaking and/or touting;

24.11.c. has demonstrated financial irresponsibility by having a judgment issued against him or her for failure to pay a debt owed as a result of obtaining feed, shelter, drugs, transportation, services for horses, veterinary services or supplies for himself or herself or others;

24.11.d. has engaged in any fraud or misrepresentation in connection with racing or breeding;

24.11.e. has violated or attempted to violate any law, rule, ruling or order with respect to racing in West Virginia or any other jurisdiction;

24.11.f. has disturbed the peace on association grounds;

24.11.g. has used profane, indecent or vulgar language to any racing official;

24.11.h. has written, issued, made or presented a check in payment for a permit fee, fine, nomination, entry or other racing fee or assessment when the individual knew or should have known that the check would be refused for payment by the bank upon which it was written, or that the account upon which the check was written did not contain sufficient funds for payment of the check, or that the check was written on a closed account or nonexistent account;

24.11.i. has allowed another to use his or her occupational permit or other racing credential for the purpose of transferring any of the benefits pertaining to the permit or credential;

24.11.j. has had an occupational permit refused, denied, suspended, revoked or otherwise disciplined by any other racing jurisdiction;

24.11.k. has failed to disclose or has falsely stated any information required in the application for a permit;

24.11.*l*. is unqualified to perform the duties required by the holding of the permit;

2.11.m. is ineligible for employment pursuant to federal or state law because of age or citizenship or is otherwise ineligible pursuant to the provisions of this rule;

24.11.n. accepts or offers, directly or indirectly, any bribe, gift or gratuity in any form, which may influence the result of a race; or

24.11.o. has violated any provision of this rule and/or the provisions of West Virginia Code §§ 19-23-1 *et seq*.

24.12. Badges. All occupational permit holders shall be issued a badge or credential by the association; shall visibly display their badge or credential at all times in restricted areas; and, are responsible for the safekeeping of their badge or credential. The association shall not issue duplicate badges or credentials except upon payment of a fee of five dollars ($5.00).

24.13. Safety Equipment. The following provisions apply to the safety equipment required for occupational permit holders:

24.13.a. Any permit holder mounted on a horse or stable pony on association grounds must wear a properly secured safety helmet at all times. The permit holder is responsible for providing sufficient evidence that his/her helmet meets or exceeds one of the following safety standards: American Society for Testing and Materials (ASTM 1163); UK Standards (EN-1384 and PAS-015); or, Australian/New Zealand Standard (AS/NZ 3838).

24.13.b. Any person mounted on a horse or stable pony on the association racing surface, all assistant starters and anyone handling a horse in a starting gate must wear a safety vest at all times. The safety vest must comply with or exceed one of the following minimum standards: British Equestrian Trade Association (BETA): 2000 Level 1; Euro Norm

(EN) 13158: 2000 Level 1; American Society for Testing and Materials (ASTM) F2681-08; Shoe and Allied Trade Research Association (SATRA) Jockey Vest Document M6 Issue 3; or, Australian Racing Board (ARB) Standard 1.1998.

24.14. Knowledge of Rules. The following provisions apply to the responsibility of permit holders to be knowledgeable of the Racing Commission's rules and to report violations of such rules:

24.14.a. A permit holder shall be knowledgeable of the rules of the Racing Commission; and by acceptance of a permit, agrees to abide by such rules.

24.14.b. A permit holder shall report to the Racing Commission or the stewards any knowledge he or she has that a violation of the Commission's rules has occurred or may occur.

§178-1-25. Owners.

25.1. Permit Requirements for Owners. The following provisions apply to the permit requirements for owners:

25.1.a. Each person who has an ownership or beneficial interest in a horse is required to hold an occupational permit issued by the Racing Commission.

25.1.b. All owners of horses and their employees are subject to the permit requirements of this rule immediately upon acceptance or occupancy of stabling accommodations from an association or upon making an entry to run on an association's racetrack. Every owner who races and/or stables his or her horses on the association's racetrack shall notify the association and the stewards of the names of his or her employees.

25.1.c. An applicant for an owner's permit shall own or lease a horse which is eligible to race and under the care of a trainer holding a permit issued by the Racing Commission. An owner shall notify the stewards of a change in trainer of his or her horse and shall obtain a notarized transfer certificate.

25.2. Permit Requirements for Multiple Owners. The following provisions apply to the permit requirements for multiple owners:

25.2.a. 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 hold a permit as required by this rule.

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

25.2.c. An application for joint ownership of a horse shall include a designation of a managing owner, a business address, the percentage of each owner's beneficial interest and any other information required by the Racing Commission. Receipt of any correspondence, notice or order at the business address provided shall constitute official notice to all persons involved in the ownership of the horse.

25.2.d. A written, notarized appointment of a managing owner or authorized agent shall be filed with the Racing Commission.

25.3. Partnerships. The following provisions apply to owner-partnerships:

25.3.a. Each and every partner, including spouses, shall obtain an owner's occupational permit to allow the partnership to act on the racetracks of West Virginia and they shall complete proper partnership forms.

25.3.b. A partnership shall appoint an authorized agent to represent it in all matters, and only the authorized agent shall withdraw money or sign claims for that partnership. A written instrument delegating specific powers to the authorized agent shall be signed by all members of the partnership and shall be notarized.

25.3.c. Partnership forms shall, among other things, set forth the following:

25.3.c.1. the name and address of every person having an interest in the horse or horses involved;

25.3.c.2. any interest greater than or equal to ten percent (10%);

25.3.c.3. to whom race winnings are payable;

25.3.c.4. in whose name the horse or horses shall run;

25.3.c.5. with whom the power to enter a horse in a race and the power to make a declaration rests; and

25.3.c.6. the terms of any contingency, lease or any other arrangement.

25.3.d. All partnership forms shall be signed by all partners or by their authorized agent.

25.3.e. In case of an emergency, authority to sign declarations of partnerships may be electronically communicated to the Racing Commission.

25.3.f. 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 shall be filed with the Racing Commission and the association's racing secretary.

25.3.g. Any alteration in a recorded partnership's registration must be reported in writing by the partnership or its authorized agent and must contain the notarized signatures of each and every partner.

25.3.h. All partners in a partnership are jointly and severally liable for all stakes, fees, and other obligations.

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

25.4. Stable Name Registration. Owners and lessees holding an occupational permit may adopt a stable name subject to the approval of the Racing Commission. The following provisions apply to stable name registration:

25.4.a. The applicant shall identify all persons using the stable name. Changes shall be reported immediately to the Racing Commission.

25.4.b. A person who has registered a stable name may cancel it upon written notice to the Racing Commission.

25.4.c. A stable name may be changed by registering a new stable name.

25.4.d. A stable name which has been registered by any other person will not be approved by the Racing Commission.

25.4.e. A stable name shall be clearly distinguishable from other registered stable names.

25.4.f. The stable name and the name of the owner shall be published in the program.

25.4.g. If the stable name consists of more than one person, the program shall list the name of the managing owner along with the phrase "*et al.*".

25.4.h. All persons using a stable name shall comply with all rules regarding issuance of permits to owners.

25.5. Racing Colors. The following provisions apply to racing colors:

25.5.a. Owners or trainers shall provide racing colors which may be subject to the approval of the Racing Commission except at racetracks where colors are furnished by the association. Racing colors shall be registered with the association's racing secretary. The stewards may authorize a temporary substitution of racing colors when necessary.

25.5.b. The racing colors to be worn by each jockey in a race shall be described in the program, and any change shall be announced to the public prior to the commencement of the race.

25.6. Transfer of Ownership. The following provisions apply to transfer of ownership:

25.6.a. If a horse is transferred by private sale or at public auction, the written acknowledgment of both parties is necessary to prove the fact that the horse was transferred with its engagements. The transfer of a horse under any circumstances to a non-eligible person shall not give that person the privilege of racing the horse.

25.6.b. No horse entered in a race may be sold or transferred until after the race in which the horse is entered has been run unless otherwise permitted by the stewards.

25.6.c. When a horse is sold with its engagements transferred, valid subscriptions, entries or rights of entry continue to exist with the surviving partners of a duly registered partnership in the event of the death of a partner, provided that the subscriptions, entries or rights of entry were made prior to the partner's death.

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

25.6.e. As long as an owner is in arrears with the horsemen's bookkeeper, no engagements can be transferred or accepted by him or her. No horse can be entered by an owner or under an owner's subscription until the owner is no longer in arrears.

25.6.f. 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 may not start the horse or receive the stakes if the horse wins.

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

25.6.h. If a horse is sold to a disqualified person, the horse's racing engagements are void as of the date of sale.

25.6.i. If the ownership of a horse is changed through claiming or transfers, the association's racing secretary shall transfer the original registration certificate to the new owner or update the records of the new owner.

25.6.j. 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 rule of racing.

25.7. Death of Owner. Subscriptions and all entries or rights of entry under them become void on the death of a subscriber, except in the case of a surviving partnership or except upon the approval of the stewards when the personal representative of an estate requests in writing that the benefits accrue to the estate of the decedent subscriber for the privilege of transfer, and agrees to assume any and all obligations incident to the original entries.

§178-1-26. Trainers.

26.1. Permit Requirement for Trainers. The following provisions apply to the permit requirements for trainers:

26.1.a. A trainer shall obtain an occupational permit from the Racing Commission and shall list on his or her occupational permit application the names of all owners or part owners of the horses he or she trains.

26.1.b. An applicant for a trainer's occupational permit who has not previously held a trainer's permit shall provide the following or undergo the following in connection with his or her application so that the Racing Commission and/or the stewards may determine whether or not the applicant is qualified to hold a trainer's permit:

26.1.b.1. evidence that the applicant held a permit in another racing occupation in the state of West Virginia for three (3) consecutive years; or

26.1.b.2. evidence that the applicant held a permit in another racing occupation in another state for four (4) consecutive years; and

26.1.b.3. statements from two (2) reputable persons in the racing industry attesting to the person's character and qualifications; and

26.1.b.4. a written and/or oral examination administered by the stewards.

26.2. Trainer Responsibility as to the Condition of the Horse. As further set forth in subdivision 51.1.a. of this rule, the trainer is responsible as an absolute insurer of the condition of the horses he or she enters in an official workout or a race regardless of any act of a third party.

26.3. Other Trainer Responsibilities. In addition to the responsibilities set forth in section 51 of this rule, the following provisions apply to trainers holding an occupational permit in this state:

26.3.a. No trainer shall harbor, engage, retain, or employ any person not holding an occupational permit. Each trainer is responsible for ensuring that persons under his or her supervision or employment hold an occupational permit.

26.3.b. Each trainer shall register with the association's racing secretary

and the association's security department every person under his or her supervision or employment.

26.3.c. Each trainer is responsible for the condition and contents of stalls, tack rooms, feed rooms, sleeping rooms and other areas which have been assigned by the association.

26.4.d. Each trainer is responsible for the disclosure of the true and entire ownership of each horse in his or her care, custody or control and immediately reporting any change in ownership to the stewards for approval and to the association's racing secretary for recording.

26.4.e. Each trainer is responsible for representing an owner in making entries, declarations, scratches and in all other matters pertaining to racing.

26.4.f. Each trainer is responsible for ensuring that horses are entered as to eligibility and weight or other allowances claimed.

26.4.g. Each trainer is responsible for presenting his or her horse and being present in the paddock at a time appointed before post time of the race in which the horse is entered.

26.4.h. Each trainer is responsible for personally attending to his or her horses in the paddock and supervising the saddling thereof, unless excused by the stewards.

26.4.i. Each trainer is responsible for ensuring that the correct horse is sent to the paddock for saddling.

26.4.j. Each trainer is responsible for being present following the running of the race to attend his or her horse or for delegating such responsibility to an employee holding an occupational permit or to the owner.

26.4.k. Each trainer is responsible for registering with the association's racing secretary the name, age, sex, breeding and ownership of all horses under his or her custody, care or control.

26.4.*l*. No trainer shall utilize stalls on association grounds unless such stalls have been assigned to him or her by the association's racing secretary.

26.4.m. Each trainer is responsible for instructing the jockey to give his or her best effort during a race and that each horse shall be ridden to win.

26.4.n. No trainer shall have in his or her custody, care or control any horse owned, in whole or in part, by a disqualified person.

26.4.o. Each trainer is responsible for 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 the owner's horses to the care of another trainer holding an occupational permit, and upon an approved transfer, the horses may be entered to race. Upon transfer of the horse(s), the inactive trainer shall not be involved in any arrangements related to the care, custody or control of the horse(s) and shall not benefit financially or in any way from the training of the horse(s).

26.4.p. No trainer shall accept or offer, directly or indirectly, any bribe, gift or gratuity in any form, which may influence the result of a race.

26.4.q. No trainer shall move or permit to be moved any horse or horses under

his or her custody, care or control into or out of the association's grounds without permission from the the association's racing secretary or his designee.

26.4.r. No trainer shall 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 the trainer is the authorized agent of the owner or part owner; has been granted such authority as the authorized agent, and has an occupational permit allowing him or her to act as an authorized agent.

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

26.5. Restrictions on Wagering. Each trainer shall refrain from wagering on his or her horse or horses to win or finish first in combination with other horses in a race in which the trainer is participating.

§178-1-27. Owners' Authorized Agents.

27.1. Permits required. The following provisions apply to the permit requirements for owners' authorized agents:

27.1.a. Each authorized agent shall obtain an occupational permit from the Racing Commission.

27.1.b. An application for a permit shall be filed for each owner represented.

27.1.c. A written instrument signed by the owner shall accompany the authorized agent's application for a permit and shall clearly set forth the delegated powers of the authorized agent. The owners' signature shall be acknowledged before a notary public.

27.1.d. If the written instrument is a power of attorney it shall be filed with the Racing Commission and attached to the application.

27.1.e. An owner wishing to make changes to the written instrument shall do so in writing in a signed, notarized statement.

27.1.f. The authorized agent's appointment may be terminated by the owner, in writing, acknowledged before a notary public and filed with the Commission whereupon the authorized agent's permit shall not be valid.

27.2. Powers and Duties. The following provisions apply to the powers and duties of owners' authorized agents:

27.2.a. An authorized agent holding an occupational permit may perform on behalf of an owner-principal holding an occupational permit all acts as relate to racing, as specified in the agency appointment, that could be performed by an owner-principal if such owner-principal were present.

27.2.b. In executing any document on behalf of an owner -principal, the authorized agent shall clearly identify the authorized agent and the owner-principal.

27.2.c. When an authorized agent enters a claim for the account of an owner-principal, the name of the owner-principal for whom the claim is being made and the name of the authorized agent shall appear on the claim slip or card.

27.2.d. Authorized agents are responsible for disclosure of the true and entire ownership of each horse for which they have authority. Any change in ownership shall be reported immediately to, and approved by, the stewards and recorded by the racing secretary.

§178-1-28. Jockeys.

28.1. Eligibility. The following provisions apply to the eligibility of jockeys for permits and for racing:

28.1.a. A jockey shall obtain an occupational permit from the Racing Commission, and the Racing Commission shall not issue an occupational permit to any jockey under eighteen (18) years of age.

28.1.b. A jockey shall pass a physical examination given within the previous twelve (12) months by a licensed physician affirming fitness to participate as a jockey. The stewards may require that any jockey be reexamined and may refuse to allow any jockey to ride pending completion of such examination.

28.1.c. An applicant for an occupational permit to act as a jockey shall show competence by evidence of the holding of other racing permits and/or the demonstration of riding ability, which may include the riding of ten (10) or more races under a temporary occupational permit issued by the stewards. The stewards and/or the Racing Commission may consult representatives of the jockeys and the horsemen, the starter, and any other racing personnel that they deem appropriate in determining the competence and ability of an individual applying for an occupational permit to act as a jockey.

28.1.d. A jockey who is serving a suspension of ten (10) race days or less may ride in designated races during the suspension if:

28.1.d.1. the 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

28.1.d.2. the race has been approved as a designated race by the stewards officiating at the meeting; and

28.1.d.3. the jockey is named no later than the time set for the close of entries for the race; and

28.1.d.4. the jockey agrees to serve an additional race day of suspension in place of the race day on which the jockey rides in a designated race.

28.1.d.5. Reciprocity of this rule applies only to those states, which have adopted the designated race rule.

28.1.e. The suspension of a jockey for a riding interference or other riding offense begins on the second race day after the ruling, unless otherwise ordered by the stewards. A suspension for all other offenses begins immediately after the ruling.

28.1.f. A jockey temporarily suspended may exercise or gallop horses until the racetrack closes for the morning.

28.2. Apprentice Jockeys. The following provisions apply to apprentice jockeys:

28.2.a. Jockey apprentices shall obtain an occupational permit from the Racing Commission and shall comply with the provisions of this section relating to jockeys, except those that are in conflict with this subsection specifically relating to apprentices.

28.2.b. An application for an occupational permit to act as an apprentice jockey shall be accompanied by:

28.2.b.1. an original, notarized contract between the apprentice and

his or her employer, if a contract has been entered into;

28.2.b.2. written proof of at least one (1) year of service with a racing stable;

28.2.b.3. a certificate of proficiency from the starter; and

28.2.b.4. a birth certificate or satisfactory evidence of the date of birth.

28.2.c. Any person eighteen (18) years of age or older who has not been previously issued an occupational permit as a jockey in this or any other country, and who meets the eligibility requirements, may be granted an apprentice certificate. The certificate shall be subject to the approval and jurisdiction of the Racing Commission.

28.2.d. Apprentice contracts entered into and apprentice certificates issued in the state of West Virginia shall be made on forms approved by the Racing Commission and completed originals of these documents shall be on file with the stewards.

28.2.e. Any and all amendments to an apprentice contract shall be made in writing, shall be notarized, and the original amendments shall be filed with the stewards. Copies of the amendments shall be retained by the parties to the contract.

28.2.f. All apprentice contracts, wherever entered into, shall be approved by and filed with the stewards.

28.2.g. If an apprentice contract is transferred, that transfer shall be approved by and filed with the stewards by both the transferor and the transferee.

28.2.h. No person may 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, which would, in the opinion of the stewards, warrant his or her employment of an apprentice.

28.2.i. 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 agent occupational permit. However, the person making the engagements is responsible for the proper maintenance of the apprentice's engagement book.

28.2.j. A duly certified apprentice jockey may claim the following weight allowances in all overnight races, except stakes and handicaps:

28.2.j.1. Ten (10) pounds allowance beginning with the first mount and continuing until he or she has ridden five (5) winners;

28.2.j.2. A seven (7) pounds allowance until the apprentice has ridden an additional thirty-five (35) winners; and

28.2.j.3. If an apprentice has ridden a total of forty (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.

28.2.k. 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 (1) more year or until the fortieth 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.

28.2.*l.* After the completion of the conditions set forth in subdivisions 28.2.j. and 28.2.k., an apprentice jockey may claim an allowance of three (3) pounds for a period of one (1) year when riding horses owned or trained by his or her original contract employer, if the contract has not been transferred or sold since he or she rode his or her first winner. The holder of the contract at the time the apprentice rides his or her first winner is considered the original contract employer.

28.2.m. An apprentice allowance shall be claimed at the time of entry and shall not be waived except by consent of the stewards.

28.2.n. The stewards shall not consider any race, unless reported in the Daily Racing Form or an equivalent publication, in determining a jockey's right to the apprentice allowance.

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

28.2.p. The stewards may extend the weight allowance of an apprentice jockey when, in the discretion of the stewards, an apprentice jockey cannot continue riding due to:

28.2.p.1. physical disablement or illness;

28.2.p.2. military service;

28.2.p.3. attendance in an institution of secondary or higher education;

28.2.p.4. restriction on racing; or

28.2.p.5. other valid reasons.

28.2.q. 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, the stewards may consider total days lost collectively. An apprentice applying for an extension must produce documentation to the stewards verifying the time lost.

28.2.r. An apprentice may petition one (1) of the racing jurisdictions in which he or she has been issued an occupational permit for an extension of the time for claiming apprentice weight allowances. The apprentice is bound by the decision of the jurisdiction that is petitioned.

28.2.s. The stewards may take jurisdiction of an application for extension of an apprentice allowance in cases where the application is based upon a claim of physical injuries or restrictions on racing which occurred at racetracks licensed by the Racing Commission.

28.3. Jockey Responsibility. The following provisions apply to a jockey's responsibility:

28.3.a. A jockey shall give a best effort during a race, and each horse shall be ridden to win. A jockey shall not ease up on or coast to the finish, without reasonable cause, even if the horse has no apparent chance to win prize money.

28.3.b. A jockey shall faithfully fulfill all engagements in respect to racing.

28.3.c. Any jockey who fails to fulfill an engagement in a race may not accept another mount in that race

28.3.d. 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.

28.3.e. 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 are both in the hands of the same trainer.

28.3.f. A jockey may have no more than one (1) agent.

28.3.g. 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 person making the engagements is responsible for the proper maintenance of the jockey's engagement book.

28.3.h. A jockey shall not have an attendant other than those provided by the association. If a jockey cannot find an available attendant, the clerk of scales shall assign one. A jockey may care for his or her own equipment.

28.3.i. A fine shall be paid by the jockey himself or herself and any other permit holder paying the fine is subject to discipline by the stewards.

28.4. Jockey Betting. 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.

28.5. Jockey's Spouse. A jockey shall not compete or ride in any race against a horse which is owned, trained or ridden by the jockey's spouse.

28.6. Jockey Mount Fees. The following provisions apply to jockey mount fees:

28.6.a. The organization representing the majority of the horsemen and the organization representing the majority of the jockeys at each racetrack may negotiate and reach agreements specifying the mount fees to be paid to the jockeys at each racetrack. Any agreement reached shall be filed with the Racing Commission thirty (30) days prior to the start of the race meeting. In the absence of such an agreement, the jockey mount fees shall be as set forth in table 178-1 B at the end of this rule.

28.6.b. The owner of the horse shall pay the jockey riding fees to the horsemen's bookkeeper.

28.6.c. 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 appropriate fee to the jockey who does ride.

28.6.d. A jockey fee shall be considered earned when the clerk of scales weighs out the jockey. The fee shall not be considered earned if the jockey, of his or her own free will, takes himself or herself off of the horse he or she is engaged to ride and when injury to the horse or rider is not involved. The stewards are vested with the authority to interpret and apply this subdivision and to determine whether or not a jockey fee is or is not earned based upon the facts and circumstances presented in a particular instance.

28.6.e. 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 of fees.

§178-1-29. Jockey Agents.

29.1. Eligibility. The following provisions apply to the eligibility of jockey agents:

29.1.a. An applicant for a permit as a jockey agent shall:

29.1.a.1. provide written proof of agency with at least one (1) jockey holding a permit issued by the Racing Commission;

29.1.a.2. demonstrate to the stewards that he or she has a contract for agency with at least one (1) jockey who has been issued a permit by the Racing Commission; and

29.1.a.3. be qualified, as determined by the stewards, by reason of experience, background and knowledge. A jockey agent's permit from another jurisdiction may be accepted as evidence of experience and qualifications. Evidence of qualifications may require passing one or both of the following:

29.1.a.3.A. a written examination; or

29.1.a.3.B. an interview or oral examination.

29.1.a.4. Applicants not previously issued a permit as a jockey agent shall be required to pass a written and oral examination.

29.1.b. 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 stewards approve the additional occupational permit. A jockey agent or his or her spouse shall not be the owner or trainer of any race horse nor shall he or she have any interest in the ownership of a horse.

29.2. Limit on Contracts. A jockey agent may serve as agent for no more than two journeymen jockeys, or one journeyman jockey and one apprentice jockey.

29.3. Responsibilities. The following provisions apply to jockey agent responsibilities:

29.3.a. A jockey agent shall not make or assist in making engagements for a jockey other than those the agent is issued a permit to represent.

29.3.b. A jockey agent shall file written proof of all agencies and changes of agencies with the stewards.

29.3.c. A jockey agent shall notify the stewards, in writing, prior to withdrawing from representation of a jockey and shall submit to the stewards a list of any unfulfilled engagements made for the jockey.

29.3.d. All persons permitted to make riding engagements shall maintain current and accurate records of all engagements made, such records being subject to examination by the stewards at any time.

29.4. Prohibited Areas. A jockey agent is prohibited from entering the jockey room, winner's circle, racing strip, paddock or saddling enclosure during the hours of racing, unless permitted by the stewards.

29.5. Agent Withdrawal. The following provisions apply to jockey agent withdrawal:

29.5.a. When any jockey agent withdraws from representation of a jockey, the

jockey agent shall immediately notify the stewards and shall submit to the stewards a list of any unfulfilled engagements made for the jockey.

29.5.b. A jockey agent shall not be permitted to withdraw from the representation of any jockey unless written notice to the stewards has been provided.

§178-1-30. Blacksmiths.

30.1. An applicant for an occupational permit to act as a blacksmith shall be qualified, as determined by the stewards, by reason of experience, background and knowledge of blacksmithing. A permit to act as a blacksmith from another jurisdiction, having been issued within a prior period as determined by the stewards, may be accepted as evidence of experience and qualifications.

30.2. An applicant for an occupational permit to act as a blacksmith who has not been previously issued a permit in this or any other state shall:

30.2.a. provide written statements from two (2) reputable persons attesting that the applicant is personally known to them; that the applicant is of good character and reputation; and that the applicant is capable of engaging in the vocation of blacksmith;

30.2.b. pass a test conducted by a panel appointed by the stewards in which the applicant:

30.2.b.1. undergoes a written or oral examination regarding horse shoes and horse shoeing;

30.2.b.2. demonstrates that he or she can shoe a horse with racing plates; and

30.2.b.3. demonstrates that he or she can fit a steel stock shoe to a pattern provided by the panel, for the application of a bar to be added.

30.2.c. The panel appointed by the stewards to conduct the test shall consist of a veterinarian, a trainer and a blacksmith, all holding occupational permits issued by the Racing Commission.

30.2.d. The applicant shall have his or her own tools necessary to complete the examination.

30.2.e. If the applicant fails the test, he or she may retake it after a period of six (6) months.

30.2.f. The stewards may exempt an applicant from the test requirement if the applicant can produce a certificate or other verification that he or she has graduated from an accredited blacksmith school.

§178-1-31. Practicing Veterinarians.

31.1. Eligibility. An applicant for a permit as a practicing veterinarian shall be qualified and licensed to practice veterinary medicine in the state of West Virginia and be otherwise qualified to be issued a permit to participate in racing. An application for a practicing veterinarian permit from the Racing Commission must be accompanied by a copy of the applicant's current license to practice veterinary medicine in the state of West Virginia.

31.2. Responsibility. The following provisions apply to the responsibilities of practicing veterinarians:

31.2.a. All practicing veterinarians administering drugs, medications or other substances shall be responsible for

ensuring that the drugs, medications or other substances and the veterinary treatment of horses are administered in accordance with this rule.

31.2.b. All practicing veterinarians shall promptly notify the Racing Commission veterinarian(s) of any reportable disease and any unusual incidence of a communicable illness in any horse in his/her charge.

31.3. Restrictions on Wagering. A practicing veterinarian shall not wager on the outcome of any race if the practicing veterinarian has treated a horse participating in that race within the past thirty (30) days.

§178-1-32. Tip Sheet Vendor.

32.1. Any person granted an occupational permit as a tip sheet vendor shall comply with the following:

32.1.a. Only one (1) version of a tip sheet for use at any one (1) racetrack on any given race day may be published and sold by a tip sheet vendor holding an occupational permit.

32.1.b. 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 racetrack.

PART 6. CLAIMING RACING

§178-1-33. General Provisions.

33.1. A person entering a horse in a claiming race warrants that the title to such horse is free and clear of any existing claim or lien, either as security interest mortgage, bill of sale, or lien of any kind; unless before entering such horse, the written consent of the holder of the claim or lien has been filed 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.

33.2. 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 is 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.

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

33.4. The stewards shall decide any questions arising under these sections pertaining to claiming racing; shall pass upon all claims; and, may, in their discretion, declare any claim void.

§178-1-34. Claiming of Horses.

34.1. Any horse starting in a claiming race is subject to be claimed for its entered price by any:

34.1.a. occupational permit holder in good standing;

34.1.b. holder of a valid claim certificate; or

34.1.c. an authorized agent holding an occupational permit acting on behalf of an eligible claimant.

§178-1-35. Claim Certificate.

35.1. An applicant for a claim certificate shall submit to the stewards:

35.1.a. an application for an owner's occupational permit and the required fee; and

35.1.b. the name of a trainer holding an occupational permit, or person eligible to hold a trainer's occupational permit, who will assume the care and responsibility for any horse claimed;

35.2. The stewards shall issue a claim certificate upon satisfactory evidence that the applicant is eligible for an owner's occupational permit.

§178-1-36. Prohibitions.

36.1. A person shall not claim more than one (1) horse in a race, nor shall a person submit more than one (1) claim for the same horse.

36.2. An authorized agent, although representing more than one eligible claimant, shall not submit more than one claim in any race.

36.3. A trainer, even though eligible to make a claim, shall not submit a claim in the same race in which the owner of horses trained by him or her has submitted a claim. If this occurs, the stewards shall declare the trainer's claim void.

36.4. When a stable consists of horses owned by more than one (1) owner, but trained by the same trainer, not more than one (1) claim may be entered on behalf of the stable in any race. If more than one (1) claim is entered, the owners shall compete by lot for the claim.

36.5. When a stable consists of horses owned by more than one (1) owner, but trained by the same trainer, the owners are not eligible to claim from that trainer's stable.

36.6. A person shall not offer or enter into an agreement to claim, or attempt to prevent another person from claiming, a horse in a claiming race.

36.7. Owners and trainers running horses in a claiming race shall not collude or make any agreement for the protection of their horses.

36.8. Any person making a false affidavit in connection with the filing of a claim pursuant to the procedures set forth in section 37 of this rule, may be summarily suspended by the stewards or may be subject to other disciplinary action by the stewards and/or the Racing Commission.

§178-1-37. Procedure for Claiming.

37.1. The claiming price of each horse in a claiming race shall be printed on the official program and all claims for a horse shall be for the amount designated in the official program, plus all transfer fees and applicable taxes.

37.2. To make a valid claim for a horse, an eligible person shall:

37.2.a. deposit with the horsemen's bookkeeper an amount equal to the amount of the claim, plus all transfer fees and applicable taxes, unless at the time of making the claim the person has an unencumbered amount equal to the amount of the claim to his or her credit with the horsemen's bookkeeper;

37.2.b. accurately complete a written claim on a form approved by the stewards and which shall include an affidavit in which the claimant certifies 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;

37.2.c. identify the horse to be claimed by the spelling of its name as spelled on the official program;

37.2.d. place the completed claim form inside a sealed envelope approved by the stewards which shall have no identification marked on it other than the number of the race in which the claim is being made;

37.2.e. have the time of day that the claim is entered stamped on the envelope; and

37.2.f. have the envelope deposited in the locked claim box no later than ten (10) minutes prior to post time of the race for which the claim is entered.

37.3. After a claim has been deposited in the claim box, it is irrevocable by the claimant.

37.4. Officials and employees of the association shall not provide any information as to the filing of claims until after the race has been run, except as is necessary for processing of the claim.

37.5. If more than one claim is filed on a horse, the successful claim shall be determined by lot conducted by the stewards or their designee.

37.6. Notwithstanding any designation of sex or age appearing in the racing program or in any racing publication, the claimant of a horse shall be solely responsible for the determination of the sex or age of any horse claimed.

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

§178-1-38. Transfer of Claimed Horses.

38.1. Upon a successful claim, the stewards shall issue an authorization of transfer of the horse from the original owner to the claimant. Copies of the transfer authorization shall be forwarded to and maintained by the stewards and the association's racing secretary. Upon notification by the stewards, the horsemen's bookkeeper shall immediately debit the claimant's account for the claiming price, applicable taxes and transfer fees.

38.2. A person shall not refuse to deliver a properly claimed horse to the successful claimant. If a person refuses to deliver a properly claimed horse, the stewards may prevent the horse claimed from racing, and may prevent all other horses owned or trained by that person from racing, until delivery is made.

38.3. Transfer of possession of a claimed horse shall take place immediately after the race has been run by the delivery of the horse to the claimant in the paddock, unless otherwise directed by the stewards. However, if the horse is required to be taken to the test barn for post-race testing, the original trainer or his/her designee shall maintain physical custody of the claimed horse; shall observe the testing procedure; shall sign the official form as witness to the taking of the specimen; and, shall, upon the release of the horse by the Racing Commission veterinarian or his or her designee, transfer possession of the claimed horse to the claimant. The successful claimant or his or her designee may also accompany the horse to the test barn for post-race testing.

38.4. When a horse is claimed out of a claiming race, the horse's engagements are transferred, with the horse, to the claimant.

38.5. Any horse claimed shall not be sold or transferred, wholly or in part thereof, to anyone for thirty (30) days 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 thirty (30) days, unless reclaimed, nor shall it race outside of the state of West Virginia for a period of sixty (60) days, except for stakes races and special events, or unless special permission is granted by the stewards.

PART 7. RULES OF THE RACE

§178-1-39. Entries and Nominations.

39.1. Entries. The following provisions apply to entries:

39.1.a. A horse shall not be qualified to start in any race unless the horse has been entered and continues to qualify for the race in which it has been entered.

39.1.b. No person shall willfully enter, or cause to be entered, or start a horse in a race, when he or she knows or believes the horse to be ineligible or disqualified.

39.1.c. A person who does not have an interest in a horse that is at least equal to the ownership interest of any other individual owner may not enter the horse in a race as the owner.

39.1.d. One or more of the owners of a horse may make joint subscriptions and entries. However, each owner is jointly and separately liable for all fees.

39.1.e. Maidens two (2) years old and up may start in West Virginia.

39.1.f. A horse must be eligible at the time of starting.

39.1.g. No horse owned by a partnership shall be permitted to enter or to start until the owners have complied with rules for the registration of the partnership as set forth in subsection 25.3. of this rule.

39.1.h. If the association's racing secretary receives an entry from any disqualified person or a disqualified horse, the entry is 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.

39.1.i. The association's racing secretary shall not accept an entry from spouses while either is disqualified from racing. For the purpose of this rule, spouses shall be considered as one.

39.2. Procedure. The following provisions apply to the procedure for entries:

39.2.a. For all races, the association's racing secretary or his or her assistants are authorized to receive entries.

39.2.b. Entries shall be made in writing, by telephone, by facsimile or by electronic means approved by the Racing Commission. Each association shall provide blank forms on which written entries may be made. Upon the request of the association's racing secretary or the stewards, any entry not made in writing shall be confirmed in writing.

39.2.c. A signed entry blank is prima facie evidence that the contents of the entry blank express the desires and intent of the person making entry.

39.2.d. When a horse is entered, it must be clearly identified by stating its age, sex, name, color, and the names of its sire and dam.

39.2.e. The stewards may refuse an entry of any person, or the transfer of any entry, with notice and the reason given.

39.2.f. The entry of a horse shall be in the name of his or her valid owner.

39.2.g. The association's racing secretary shall immediately compile and conspicuously display the number of entries upon the closing of all overnight races.

39.2.h. Alterations shall not be made in any entry after closing of entries, except correction of errors approved by the stewards.

39.3. Coupled Entries. The following provisions apply to coupled entries:

39.3.a. Two (2) or more horses which are entered in a race shall be joined as a mutuel entry and constitute one (1) betting interest if they are owned or leased in whole or in part by the same owner or are trained by a trainer who owns or leases any interest in any of the other horses in a race, except that such entries may be uncoupled in stakes races, futurities or other special events.

39.3.b. No more than two (2) horses having common ties through ownership or training may be entered in an overnight race. Under no circumstances may both horses of a coupled entry start to the exclusion of a single entry. When making a coupled entry, a preference for one (1) of the horses must be made.

39.3.c. In the event of disqualification of any part of a coupled entry, it shall be in the discretion of the stewards whether the disqualification shall extend to all or any other part of the coupled entry.

39.3.d. In a stakes race, 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.

39.3.e. In any race ordered split by the association's racing secretary into two (2) or more divisions, horses coupled pursuant subdivisions 39.3.a. and 39.3.b. of this subsection shall be seeded in separate divisions and uncoupled.

39.4. Closings. The following provisions apply to the closing of entries:

39.4.a. The association's racing secretary shall close all entries at an advertised time with no entry accepted thereafter. The association's racing secretary, however, may postpone closing or filling of overnight races. Provided that, if the association's racing secretary postpones the closing or filling of one or more overnight races past the advertised time, he or she shall postpone the closing or filling of all other overnight races until the same time.

39.4.b. For futurity races, if a horse is not named through the entry box at the published time of closing, the horse shall be denied entry.

39.4.c. No races shall be drawn or cancelled until such time as all races comprising the racing card have been filled.

39.5. Number of Starters in a Race. The following provisions apply to the number of starters in a race:

39.5.a. The maximum number of starters in any race shall be limited to the number of starting positions afforded by the association starting gate and its extensions. The number of starters may be further limited by the number of horses which, in the opinion of the

stewards, can be afforded a safe, fair and equal start.

39.5.b. 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 the preference system or the conditions of the race. The same methods shall be employed in determining the horses and post or starting positions in split races.

39.6. Split or Divided Races. The association's racing secretary may split or divide any overnight race.

39.7. Post Positions. 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 are entitled to the position at the starting gate corresponding to the number drawn.

39.8. Also-Eligible List. The following provisions apply to the also-eligible list:

39.8.a. If the number of entries for a race exceeds the number of horses permitted to start, the association's racing secretary may create and post an also-eligible list.

39.8.b. If any horse is scratched from a race for which an also-eligible list was created, a replacement horse shall be drawn from the also-eligible list into the race in order of preference.

39.8.c. Any owner or trainer of a horse on the also-eligible list who does not wish to start the horse in such race shall so notify the association's racing secretary prior to scratch time for the race, thereby forfeiting any preference to which the horse may have been entitled.

39.8.d. A horse which draws into a straightaway race from the also-eligible list shall start from the post position vacated by the scratched horse. In the event more than one horse is scratched, post positions of horses drawing in from the also-eligible list shall be determined by public lot.

39.8.e. A horse which draws into a non-straightaway race from the also-eligible list shall start from the outermost post position. In the event more than one horse is scratched, post positions of horses drawing in from the also-eligible list shall be determined by public lot.

39.8.f. If a horse is on the also-eligible list and is selected on a subsequent race day, the horse is an automatic scratch or elimination from the eligible list the first day.

39.9. Preferred List. The association's racing secretary shall maintain a list of entered horses eliminated from starting by a surplus of entries, and these horses shall constitute a preferred list and have preference. The manner in which the preferred list shall be maintained and all rules governing such list shall be the responsibility of the association's racing secretary. Such rules must be submitted to the Racing Commission thirty (30) days prior to the commencement of the race meeting and are subject to the approval of the Commission.

§178-1-40. Naming of Riders.

40.1. Owners and/or trainers shall name their jockeys no later than scratch time of that race.

40.2. Any change of a jockey after scratch time of a race must be sanctioned by the

stewards and shall be promptly and publicly displayed and announced.

§178-1-41. Declarations and Scratches.

41.1. Declarations. The following provisions apply to declarations:

41.1.a. A declaration is the act of withdrawing an entered horse from a race prior to the closing of entries.

41.1.b. The declaration of a horse from a race is irrevocable.

41.1.c. If the miscarriage of any declaration by mail or otherwise is alleged, satisfactory proof of the miscarriage is required of the complainant. Otherwise, the declaration shall not be accepted.

41.2. Scratches. The following provisions apply to scratches:

41.2.a. A scratch is the act of withdrawing an entered horse from a contest after the closing of entries.

41.2.b. A scratch of a horse from a race is irrevocable.

41.2.c. No horse shall be considered to be scratched from a race until the trainer or his or her designee notifies the association's racing secretary within the prescribed time period established by the association.

41.2.d. Scratches from stakes races shall close four (4) hours before post time for that race, unless otherwise approved by the stewards.

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

41.2.f. A recommendation from a Racing Commission veterinarian to scratch a horse shall be given to the stewards and shall be used only as an aid in determining whether a scratch shall be approved.

§178-1-42. Weights.

42.1. Allowances. The following provisions apply to weight allowances:

42.1.a. Weight allowance must be claimed at time of entry and shall not be waived after the posting of entries, except by consent of the stewards.

42.1.b. A horse shall start with only the allowance of weight to which it is entitled at time of starting, regardless of its allowance at time of entry.

42.1.c. Horses not entitled to the first weight allowance in a race shall not be entitled to any subsequent allowance specified in the conditions.

42.1.d. Claim of weight allowance to which a horse is not entitled shall not disqualify it unless protest is made in writing and lodged with the stewards at least one (1) hour before post time for that race.

42.1.e. A horse shall not be given a weight allowance for failure to finish second or lower in any race.

42.1.f. No horse shall receive allowance of weight nor be relieved extra weight for having been beaten in one (1) or more races, but this rule shall not prohibit maiden allowances or allowances to horses that have not won a race within a specified period or a race of a specified value.

42.1.g. Except in handicap races which expressly provide otherwise, two (2)

year old fillies shall be allowed three (3) pounds, and fillies and mares, three (3) years old and upward, shall be allowed five (5) pounds before September 1 and three (3) pounds thereafter in races where competing against male horses.

42.2. Penalties. The following provisions apply to weight penalties:

42.2.a. Weight penalties are obligatory.

42.2.b. Horses incurring weight penalties for a race shall not be entitled to any weight allowance for that race.

42.2.c. No horse shall incur a weight penalty or be barred from any race for having been placed second or lower in any race.

42.2.d. Penalties incurred and allowances due in steeplechase or hurdle races shall not apply to races on the flat, and vice versa.

42.2.e. The reports, records and statistics as published by Daily Racing Form, Equibase or other recognized publications shall be considered official in determining eligibility, allowances and penalties, but may be corrected.

42.2.f. For determining weight penalties and allowances for horses that have previously won or placed in Graded or Group races, penalties in the race conditions will only apply to Graded or Group races in Part 1 countries as recognized in the International Catalogue Standards (ICS) book.

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

42.3. Scale of Weights. The following provisions apply to the scale of weights:

42.3.a. With the exception of apprentices, no jockey shall be assigned a weight of less than one hundred eighteen (118) pounds.

42.3.b. A notice shall be included in the daily program that lists the weight to be carried by each horse as established by the association's racing secretary and that notifies the public that jockeys may carry approximately three (3) pounds more than the published weight to account for safety equipment (vest and helmet) that is not included in required weighing out procedures. Additionally, the public shall be notified in the daily program that upon the stewards' approval, jockeys may weigh in with an additional three (3) pounds for inclement weather gear.

§178-1-43. Workouts.

43.1. Requirements. Any horse which has not raced for a period of sixty (60) days shall have one (1) published workout, or a workout certified by the clocker, to be announced over the public address system prior to the horse starting.

43.2. Identification. The following provisions apply to the identification requirements for workouts:

43.2.a. An occupational permit holder exercising a horse in a workout shall identify the horse at the request of the clocker.

43.2.b. An occupational permit holder exercising a horse in a workout shall, upon request of the clocker, identify the distance the horse is to be worked and the point on the track where the workout will start.

43.2.c. An occupational permit holder wishing to exercise a horse on the racing strip between races shall obtain permission from the stewards and the track superintendent. When a horse is being warmed up or exercised between races, a public announcement shall be made giving the name of the horse and explaining its presence on the racing strip.

§178-1-44. Horses Ineligible. A horse is ineligible to start in a race when:

44.1. its breed registration certificate is not on file with the association's racing secretary one-half (½) hour before post time for the first race; the stewards may waive this requirement if the information contained on the registration certificate is otherwise available and the horse is otherwise correctly identified to the stewards' satisfaction;

44.2. its name has been changed and it has not been issued a new registration certificate by the appropriate breed registry;

44.3. it is not fully identified and is tattooed on the inside of the upper lip, is microchipped with a unique microchip (ISO 11784), freeze brand or identified by any other method approved by the appropriate breed registry and the Racing Commission;

44.4. the owner of the horse is in financial arrears; except with the approval of the association's racing secretary or the stewards;

44.5. it is owned in whole or in part by an undisclosed person or interest;

44.6. it is not in sound racing condition;

44.7. it has been trachea tubed to artificially assist breathing;

44.8. it has been nerved; except as provided for in this rule;

44.9. it has impaired eyesight in both eyes, as determined by a Racing Commission veterinarian;

44.10. it is thirteen (13) years of age or older;

44.11. it is owned by an owner and/or supervised by a trainer who do not hold occupational permits issued by the Racing Commission;

44.12. it is owned, in whole or in part, or is under the care and control of a person who is excluded by the stewards or the association or suspended by the stewards; provided that, when the person has been reinstated to the racetrack by the association or the stewards, or the person's suspension has been rescinded or has expired, or the horse has been transferred through a bona fide sale to an owner acceptable to and approved by the stewards or the Racing Commission, the horse may be eligible to start in a race;

44.13. at the time of starting of the race it is on the stewards' list, the paddock judge's list, the starter's list, the veterinarians' list or the bleeder list;

44.14. it has been removed from starting due to sickness or physical disability and therefore is ineligible to start for a minimum of ten (10) calendar days, exclusive of the day of the horse's removal; provided that at the expiration of the minimum ten (10) day period, the stewards may allow a horse to start in a race if the entry is accompanied by a written certificate of fitness from a Racing Commission veterinarian;

44.15. if the horse is a mare who is or who may be in foal, unless full information as to services or breeding has been filed with the association's racing secretary and the owner's practicing veterinarian has given approval;

provided that if a mare who is or who may be in foal is permitted to start in a race under this subsection, the breeding information and the practicing veterinarian's approval shall be conspicuously posted in the association's racing secretary's office and if the mare is claimed, the original owner shall supply the stallion service certificate to the new owner that has claimed the horse; and

44.16. there is no current negative test certificate for Equine Infectious Anemia (EIA) attached to its breed registration certificate or proof of a negative test certificate is not otherwise available.

§178-1-45. Running of the Race.

45.1. Equipment. The following provisions apply to the equipment used in connection with the running of a race:

45.1.a. All riding crops are subject to approval and enforcement by the stewards and inspection by the clerk of scales and shall meet the following requirements:

45.1.a.1. Riding crops shall have a shaft and a flap and will be allowed in racing and training, only as follows:

45.1.a.1.A. Maximum weight of eight ounces;

45.1.a.1.B. Maximum length, including flap, of thirty (30) inches;

45.1.a.1.C. Minimum diameter of the shaft of one-half (½) inch; and

45.1.a.1.D. Shaft contact area must be smooth, with no protrusions or raised surface, and covered by shock absorbing material.

45.1.a.2. The flap is the only allowable attachment to the shaft and must meet these specifications:

45.1.a.2.A. Length beyond the end of the shaft a maximum of one (1) inch;

45.1.a. 2.B. Width a minimum of eight-tenths (0.8) of an inch and a maximum of one and six-tenths (1.6) inches;

45.1.a.2.C. No reinforcement or additions beyond the end of the shaft;

45.1.a.2.D. No binding within seven (7) inches of the end of the shaft; and

45.1.a.2.E. Shock absorbing characteristics similar to those of the contact area of the shaft.

45.1.b. No bridle shall exceed two (2) pounds.

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

45.1.d. The starter shall give permission to add blinkers to a horse's equipment or to discontinue the use of blinkers.

45.1.e. Riding crops 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 the riding crops and/or blinkers, and approved by the starter and the stewards before time of entry.

45.1.f. A horse's tongue may be tied down with clean bandages, gauze or tongue strap. 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 may tie the tongue, replace, or repair a tongue-tie.

45.1.g. The stewards or their designee may give permission during the current meeting for any change of equipment from that which a horse carried in its previous race.

45.1.h. 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 and after announcement to the public.

45.1.i. Horseshoes on which the trailing portion of the shoe is turned down are prohibited at licensed racetracks in West Virginia.

45.2. Racing Numbers. The following provisions apply to racing numbers:

45.2.a. Each horse shall carry a conspicuous saddle cloth number corresponding to the official number given that horse on the official program.

45.2.b. 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.

45.2.c. In the case of a coupled entry that includes more than one horse, each horse in the entry shall carry the same number, with a different distinguishing letter following the number. As an example, two horses in the same entry shall appear in the official program as 1 and 1A.

45.2.d. Each horse in the mutuel field shall carry a separate number or may carry the same number with a distinguishing letter following the number.

45.3. Jockey Requirements. The following provisions apply to requirements imposed upon jockeys in connection with the running of a race:

45.3.a. In riding a race, a jockey shall be neat in appearance and the judgment of the stewards controls in this regard. A jockey shall dress in jockey attire including, cap, jacket white or light breeches and top boots. A jockey's first name and/or middle name and/or surname, or initials representing the first letters of the jockey's first name and/or middle name and/or surname, may be printed on the side of a jockey's breeches in black lettering not to exceed thirty-two (32) square inches. The names(s) or initials on a jockey's breeches must be those of the jockey wearing the breeches.

45.3.b. A jockey must wear a safety vest when riding in an official race. The safety vest must comply with or exceed one of the following minimum standards: British Equestrian Trade Association (BETA): 2000 Level 1; Euro Norm (EN) 13158: 2000 Level 1; American Society for Testing and Materials (ASTM) F2681-08; Shoe and Allied Trade Research Association (SATRA) Jockey Vest Document M6 Issue 3; or, Australian Racing Board (ARB) Standard 1.1998.

45.3.c. A jockey must wear a safety helmet when riding in an official race. A jockey is responsible for providing sufficient evidence that his/her helmet meets or exceeds one of the following safety standards: American Society for Testing and Materials (ASTM 1163); UK Standards (EN-1384 and PAS-015); or, Australian/New Zealand Standard (AS/NZ 3838).

45.3.d. A jockey shall wear the colors of the owner or owners of the horse he or

she is riding, unless otherwise approved by the stewards and a jockey shall have a number on the saddlecloth of his mount corresponding to the number of the horse as exhibited in the official program.

45.4. Jockey Advertising. The following provisions apply to jockey advertising:

45.4.a. A jockey shall not wear advertising or promotional material of any kind (whether for a nonprofit or for-profit entity) on clothing within one (1) hour of or during a race, unless:

45.4.a.1. The material advertises or promotes the Jockeys' Guild in the form of the picture of a jockey's boot or the picture of a wheelchair, with no additional picture or logo;

45.4.a.2. The material is the Permanently Disabled Jockey's Fund logo, with no additional picture or logo; or

45.4.a.3. The picture or logo has previously been approved by the current owner, the association, and the stewards under the process set forth in this subsection, and this approval is reflected in the Racing Commission's official records; and

45.4.a.4 The material complies with the size restrictions of subparagraphs 45.4.b.2.A., 45.4.b.2.B. and 45.4.b.2.C. of this subsection; or the following criteria are met:

45.4.a.4.A. The material meets the advertising standards listed in subdivision 45.4.b. of this subsection; and

45.4.a.4.B. The jockey obtains the written approval established in subdivision 45.4.d. of this subsection.

45.4.b. Advertising or promotional material displayed on jockey clothing shall:

45.4.b.1. Not compete with, conflict with, or infringe upon sponsorship agreements applicable to the racing association race or to the race meet in progress; and

45.4.b.2. Comply with the following size restrictions;

45.4.b.2.A. A maximum of thirty-two (32) square inches on each thigh of the pants on the outer side between the hip and knee and ten (10) square inches on the rear of the pant at the waistline at the base of the spine;

45.4.b.2.B. A maximum of twenty-four (24) square inches on boots and leggings on the outside of each nearest the top of the boot; and

45.4.b.2.C. A maximum of six (6) square inches on the front center of the neck area (on a turtleneck or other undergarment).

45.4.c. A sponsorship shall not be permitted by a person or entity whose message, business reputation, or ongoing business activity may be considered as obscene or indecent to a reasonable person.

45.4.d. For advertising or promotional material addressed in subparagraphs 45.4.a.4.A. and 45.4.a.4.B. of this subsection, approval in writing of all three (3) of the following shall be required:

45.4.d.1. The managing owner of the horse, or the owner's authorized agent;

45.4.d.2. The licensed racing association, which shall grant approval if it reasonably determines the material meets the standards in paragraph 45.4.b.1. of this subsection; and

45.4.d.3. The stewards, who shall grant approval if they reasonably determine the material meets the standards in paragraph 45.4.b.2. and subdivision 45.4.c. of this subsection.

45.4.e. Written approval for advertising and promotional material shall be evidenced by completion and return of the "Request to Wear Advertising and Promotional Materials" set forth in table 178-1 C at the end of this rule. The form shall be completed and submitted to the stewards not later than a time designated by the stewards.

45.4.f. As a condition for approval of advertising or promotional material, either the owners, the stewards, or the licensed racing association may require a personal viewing of the proposed material as it is to be displayed, to determine that the requirements of this subsection are met.

45.4.g. This rule shall not prohibit the sponsor of a licensed racing association race or race meeting from displaying advertising or promotional material on an association saddlecloth if it does not interfere with the clear visibility of the number of the horse.

45.4.h. Advertising content other than that approved in this rule shall not be permitted.

45.5. Weighing Out. The following provisions apply to weighing out:

45.5.a. The clerk of the scales shall weigh out each jockey for his or her respective horses in each race 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.

45.5.b. 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 stakes race shall report into the jockey room no later than one (1) hour before post time of that race, unless permission is granted to do otherwise by the stewards. 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 permission is granted by the stewards.

45.5.c. No jockey may carry overweight in excess of two (2) pounds without the consent of the owner or trainer and no jockey shall be allowed to ride more than five (5) pounds overweight.

45.5.d. Any overweight shall be declared by a jockey to the clerk of scales at the time appointed in advance of a race. The clerk of scales shall report to the stewards any failure on the part of any jockey to comply with this subdivision.

45.5.e. The clerk shall have all jockey overweights displayed and/or announced publicly and any change in the amount of an overweight after the jockey's declaration pursuant to subdivision 45.5.d., shall be displayed and/or announced publicly.

45.5.f. If any underweight 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 shall be corrected and announced publicly.

45.5.g. The association shall provide the only attendants who may assist jockeys in weighing out. The attendants must hold an occupational permit issued by the Racing Commission.

45.5.h. A jockey's weight shall include his or her clothing, boots, saddle and its attachments and any other equipment except the bridle, bit, blinkers, goggles, number cloth and safety equipment including helmet, vest, over-girth, reins and breast collar.

45.5.i. A jockey shall ride a race with the same clothing, boots, saddle and its attachments, and any other equipment not excepted from the jockey's weight under subdivision 45.5.h., that the jockey had on or had in his or her possession when the jockey weighed out for that race.

45.5.j. Upon the stewards' approval, jockeys may be allowed up to three (3) pounds more than published weights for inclement weather clothing and equipment.

45.6. Paddock to Post. The following provisions apply to paddock to post activities:

45.6.a. Every horse shall be saddled by his or her trainer in the paddock unless permission has been granted by the stewards to saddle elsewhere.

45.6.b. The post parade shall not exceed twelve (12) minutes, except in cases of unavoidable delay. Horses shall be allowed to break formation and canter, warm up, or go as they please to the post, unless otherwise directed by the stewards. Horses shall start without unnecessary delay once they have reached the post.

45.6.c. 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 shall be free of all hands other than those of the jockey, assistant starter or Racing Commission veterinarian before the starter releases the barrier.

45.6.d. If a jockey is injured on the way to the starting gate so as to require another jockey for his or her replacement, the horse shall be taken to the paddock and re-mounted with a replacement jockey who shall ride over the uncompleted portion of the route of the parade to the starting gate.

45.6.e. If a jockey is thrown from the horse on the way from the paddock to the starting gate, he or she shall remount the horse, return to the point where the he or she was thrown and then proceed over the route of the parade to the starting gage. A horse shall carry his or her assigned weight from paddock to starting gate and from starting gate to finish.

45.6.f. In case of an accident occurring to a jockey, 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.

45.6.g. If a horse leaves the racing strip while moving from paddock to starting gate, the horse shall be returned 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.

45.6.h. No person shall willfully delay the arrival of a horse at the starting gate.

45.6.i. No person, other than the rider, starter, or assistant starter shall be permitted to assist a horse in obtaining a start.

45.6.j. The starter shall load thoroughbreds into their positions in the starting gate in alternating sequence, with the thoroughbred assigned to the post closest to the inside rail and the thoroughbred assigned to the post position nearest to the middle of the field being loaded first, and so on, until the field is properly loaded. When there are less than seven (7) thoroughbreds running a race, they may be loaded in the starting gate in the order of their positions beginning from the inside rail. Vicious and unruly horses may be loaded out of sequence in the discretion of the starter.

45.7. Post to Finish.

45.7.a. The following provisions apply to the start of a race:

45.7.a.1. The starter is responsible for assuring that each participant receives a fair start.

45.7.a.2. 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 mutuel field.

45.7.b. The following provisions apply to interference, jostling or striking:

45.7.b.1. A jockey shall not ride carelessly or willfully so as to permit his or her mount to interfere with, impede or intimidate any other horse in the race.

45.7.b.2. No jockey shall carelessly or willfully jostle, strike or touch another jockey or another jockey's horse or equipment.

45.7.b.3. No jockey shall unnecessarily cause his or her horse to shorten its stride or engage in other actions so as to give the appearance of having suffered a foul.

45.7.c. The following provisions apply to maintaining a straight course:

45.7.c.1. When the way is clear in a race, a horse may be ridden to any part of the course, but if any horse swerves, or is ridden to either side, so as to interfere with, impede or intimidate any other horse, it is a foul.

45.7.c.2. The offending horse may be disqualified, if in the opinion of the stewards, the foul altered the finish of the race, regardless of whether the foul was accidental, willful or the result of careless riding.

45.7.c.3. If the stewards determine the foul was intentional, or due to careless riding, the jockey may be held responsible and his or her occupational permit may be disciplined.

45.7.c.4. In a straightaway race, every horse must maintain position as nearly as possible in the lane in which it starts. If a horse is ridden, drifts or swerves out of its lane in such a manner that it interferes with, impedes or intimidates another horse, it is a foul and may result in the disqualification of the offending horse.

45.7.d. The following provisions apply to disqualification:

45.7.d.1. When the stewards determine that a horse shall be disqualified for interference, they may place the offending horse behind such horses as in their judgment it interfered with, or they may place it last.

45.7.d.2. If a horse is disqualified for a foul, any horse or horses in the same race owned or trained by the same interests, whether coupled or uncoupled may also be disqualified.

45.7.d.3. Possession of any electrical or mechanical stimulating or shocking device by a jockey, horse owner, trainer or other person authorized to handle or attend to a horse shall be prima facie evidence of a violation of these rules and is sufficient grounds for the stewards to scratch or disqualify the horse.

45.7.d.4. Should the stewards determine that there is more than one (1) incident of interference in a race where disqualification is warranted, the stewards shall deal with the incidents in the order in which the incident occurs during the race from start to finish; except in the case where the same horses are involved in multiple incidents. Once a horse has been disqualified, it should remain placed behind the horse with which it interfered. The stewards shall make a conscious effort to place and maintain as placed, every and all horses placed behind others for interference.

45.7.e. All horses shall be ridden out past the finish line in every race. A jockey shall not ease up or coast to the finish, without reasonable cause, even if the horse has no apparent chance to win prize money. A jockey shall give a best effort during a race, and each horse shall be ridden to win.

45.7.f. The following provisions apply to the use of a riding crop:

45.7.f.1. Although the use of a riding crop is not required, any jockey who uses a riding crop during a race shall do so only in a manner consistent with exerting his or her best efforts to win.

45.7.f.2. No electrical or mechanical device or other expedient designed to increase or retard the speed of a horse, other than the riding crop approved by the stewards, shall be possessed by anyone, or applied by anyone to the horse at any time on the grounds of the association during the meeting, whether in a race or otherwise.

45.7.f.3. Riding crops may be used on two (2) year olds, as well as other first time starters, if schooled or reviewed by the starter with the riding crop and approved by the starter and the stewards before the time of entry.

45.7.f.4. The riding crop shall only be used for safety, correction and encouragement.

45.7.f.5. All riders should comply with the following when using a riding crop:

45.7.f.5.A. Showing the horse the riding crop and giving it time to respond before hitting it;

45.7.f.5.B. Having used the riding crop, giving the horse a chance to respond before using it again;

45.7.f.5.C. Using the riding crop in rhythm with the horse's stride.

45.7.f.6. Prohibited use of the riding crop includes, but is not limited to, striking a horse:

45.7.f.6.A. on the head, flanks or on any other part of its body other than the shoulders or hind quarters except when necessary to control a horse;

45.7.f.6.B. during the post parade or after the finish of the race except when necessary to control the horse;

45.7.f.6.C. excessively or brutally causing welts or breaks in the skin;

45.7.f.6.D. when the horse is clearly out of the race or has obtained its maximum placing;

45.7.f.6.E. persistently even though the horse is showing no response under the riding crop; or

45.7.f.6.F. striking another rider or horse.

45.7.f.7. After the race, horses may be subject to inspection by a Racing Commission veterinarian looking for cuts, welts or bruises in the skin. Any adverse findings shall be reported to the stewards.

45.7.f.8. The giving of instructions by any permit holder that if obeyed would lead to a violation of this subdivision may result in disciplinary action also being taken against the permit holder who gave such instructions.

45.7.g. If a horse leaves the racing strip after the start, the stewards shall disqualify the horse.

45.7.h. If a horse becomes incapacitated during the running of the race or is otherwise unable to finish, best efforts shall be made to dismount, unsaddle and remove the horse from the racing strip without passing the public stands. Further, the horse shall not be euthanized on the racing strip in the direct view of the public unless authorized by a Racing Commission veterinarian or his or her designee.

45.7.i. If a horse is in distress, it shall remain on the racing strip until a Racing Commission veterinarian and the equine ambulance arrive and remove the horse.

45.7.j. During the running of the race, the stewards shall exclude all unauthorized persons from the racing strip.

45.7.k. The following provisions apply to the order of finish:

45.7.k.1. The official order of finish shall be decided by the placing judges with the aid the photo finish system, and in the absence of the photo finish film record, the video replay. The photo finish and video replay are only aids in the placing judges' decision. The decision of the placing judges shall be final in all cases.

45.7.k.2. The nose of the horse shall determine the placement of the horse in relationship to other horses in the race.

45.7.*l*. The following provisions apply to returning after the finish:

45.7.*l*.1. After a race has been run, the jockey shall ride promptly to the place designated by the stewards, dismount and report to the clerk of scales to be weighed in. Jockeys shall weigh in with all pieces of equipment with which they weighed out.

45.7.*l*.2. If a jockey is prevented from riding to the designated unsaddling area because of an accident or illness to the jockey or the horse, the jockey may walk or be transported to the scales, or may be excused from weighing in by the stewards.

45.7.m. The following provisions apply to unsaddling:

45.7.m.1. Only persons authorized by the stewards may assist the jockey with unsaddling the horse after the race.

45.7.m.2. No one shall place a covering over a horse before it is unsaddled and the jockey has removed the equipment that is to be included in his or her weight.

45.7.n. The following provisions apply to weighing in:

45.7.n.1. A jockey shall weigh in at no less than the same weight at which he or she weighed out, and if under that weight, and after consideration of mitigating circumstances by the stewards, his or her mount may be disqualified from any portion of the purse money.

45.7.n.2. In the event of such disqualification, all monies wagered on the horse shall be refunded unless the race has been declared official.

45.7.n.3. A jockey's weight shall include clothing, boots, saddle and its attachments and any other equipment except the bridle, bit, blinkers, number cloth and over-girth, reins and breast collar.

45.7.n.4. Upon approval of the stewards, jockeys may be allowed up to three (3) pounds more than published weights to account for inclement weather clothing and equipment.

45.7.n.5. The post-race weight of a jockey includes any sweat, dirt and mud that may have accumulated on the jockey, jockey's clothing, jockey's safety equipment and over-girth. This accounts for additional weight depending on specific equipment, as well as weather, track and racing conditions.

45.7.o. The following provisions apply to dead heats:

45.7.o.1. When two (2) or more horses run a dead heat, the results of the dead heat are final.

45.7.o.2. The owners of the horses in a dead heat shall divide equally the purse money involved.

45.7.o.3. If a dead heat is for first place, each horse shall be considered a winner of the amount received according to paragraph 45.7.o.2 of this subdivision.

45.7.o.4. When a dead heat is run for second place and an objection is made and sustained as to the winner of the race, the horses which run the dead heat for second place shall be considered to have run a dead heat for first place.

45.7.o.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.

45.7.o.6. In case of a dead heat for win, each of the horses involved is a winner for the purpose of this subdivision.

§178-1-46. Protests, Objections and Inquiries.

46.1. Stewards to Inquire. The following provisions apply to inquiries by the stewards:

46.1.a. The stewards shall take cognizance of foul riding and may entertain

reports from other racing officials, regardless of whether or not a formal complaint is made. The stewards shall not consider a complaint which comes from any person other than the jockey, trainer or owner of the horse interfered with.

46.1.b. In determining the extent of disqualification, the stewards in their discretion may:

46.1.b.1. declare null and void a track record set or equalled by a disqualified horse, or any horses coupled with it as an entry;

46.1.b.2. affirm the placing judges' order of finish and hold the jockey responsible if, in the stewards' opinion, the foul riding did not affect the order of finish; or

46.1.b.3. disqualify the offending horse and hold the jockey blameless if in the stewards' opinion the interference to another horse in a race was not the result of an intentional foul or careless riding on the part of a jockey.

46.2. Race Objections. The following provisions apply to race objections:

46.2.a. An objection following the running of any race must be made to the stewards before the race is declared official.

46.2.b. The stewards shall make all findings of fact as to all matters occurring during and incident to the running of a race; shall determine all objections and inquiries, and shall determine the extent of disqualification, if any, of horses in the race.

46.2.c. If a jockey wishes to object to a happening in a race, he or she must 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 the jockey shall notify the outrider that is equipped with a two-way radio for communication with the stewards, that the jockey 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.

46.3. Protests. The following provisions apply to protests:

46.3.a. A protest shall be made in writing, signed by the complainant and filed with the stewards before post time of the race in question.

46.3.b. A protest, except a protest involving fraud, may be filed only by the owner or his or her authorized agent, the trainer, or the jockey of a horse engaged in the race in which the protest is made or by a racing official of the meeting.

46.3.c. Any person may make a protest involving fraud.

46.3.d. If a claimed horse has had a posterior digital neurectomy and has not complied with the requirements of paragraph 51.1.b.9. of this rule, the claimant has forty-eight (48) hours from the start of the race from which the horse was claimed to file a protest which shall be supported by an affidavit made by a practicing veterinarian holding an occupational permit and a Racing Commission veterinarian.

46.3.e. Anyone who protests against a horse engaged in a race and who files the protest with the stewards not less than sixty (60) minutes before post time, shall receive immediate consideration. The stewards shall disqualify the horse from starting when there is no proof provided within thirty (30) minutes of post time that the horse is qualified to start.

46.3.f. A protest against the scheduled distance of a race shall be made at least thirty (30) minutes before post time for that race.

46.3.g. A protest may not be withdrawn unless a request to withdraw is submitted in writing and is approved by the stewards.

46.3.h. No person shall make a frivolous protest.

46.3.i. The stewards shall keep a record of all protests and complaints and any action taken on the protests and complaints.

PART 8. EQUINE VETERINARY PRACTICES, HEALTH AND MEDICATION

§178-1-47. Equine Health.

47.1. General. All horses that move onto a West Virginia racetrack from another state or country must comply with all applicable rules of the West Virginia Commissioner of Agriculture and with the applicable rules of the United States Department of Agriculture.

47.2. Equine Infectious Anemia (EIA). The following provisions apply to equine infectious anemia (EIA):

47.2.a. No horse shall be permitted on the grounds of a racing association in this state unless the horse has had a negative Coggins test for EIA.

47.2.b. A person designated by the racing association, must review official test papers of each horse at the time of entry on the grounds of the racing association to ensure that all horses negative for EIA.

47.2.c. All horses being moved interstate must have been tested for EIA with a negative result within twelve (12) months prior to start in a race held under the jurisdiction of the Racing Commission.

47.2.d. All horses not moved interstate must have been tested for EIA with a negative result within twelve (12) months prior to start in a race held under the jurisdiction of the Racing Commission.

47.2.e. Should a horse at a racetrack in this state test positive for EIA, notification shall be sent to the West Virginia Commissioner of Agriculture within twenty-four (24) hours after the results of the test are known. Copies of the notification sent to the Commissioner of Agriculture shall be simultaneously provided to the stewards and the association.

47.2.f. Once a positive EIA test is received for a horse at a racetrack in this state, the rules and procedures of the Commissioner of Agriculture govern the handling and movement of infected and exposed horses at the track.

47.3. Euthanasia. No horse shall be euthanized on the grounds of an association until the horse has been observed by a Racing Commission veterinarian. If an emergency arises, a practicing veterinarian attending to the horse may euthanize the horse and shall subsequently notify a Racing Commission veterinarian.

§178-1-48. Veterinary Practices.

48.1. Veterinarians under Authority of Racing Commission Veterinarian(s). Veterinarians issued an occupational permit by the Racing Commission and practicing at any location under the jurisdiction of the Commission are under the authority of the Racing Commission veterinarian(s) and the

stewards. The Racing Commission veterinarian(s) may recommend to the stewards or the Racing Commission the discipline that may be imposed upon a veterinarian who violates this rule.

48.2. **Treatment Restrictions.** The following provisions apply to treatment restrictions:

48.2.a. Except as otherwise provided in this subsection, no person other than a veterinarian licensed to practice veterinary medicine in the state of West Virginia and holding an occupational permit issued by the Racing Commission shall possess or administer to a horse a prescription or controlled medication, drug, chemical or other substance (including any medication, drug, chemical or other substance by injection) at any location under the jurisdiction of the Racing Commission.

48.2.b. This subsection does not apply to the administration of the following substances except in approved quantitative levels, if any, present in post-race samples or as they may interfere with post-race testing:

48.2.b.1. A recognized non-injectable nutritional supplement or other substance approved by a Racing Commission veterinarian;

48.2.b.2. A non-injectable substance on the direction or by prescription of a veterinarian licensed to practice veterinary medicine in the state of West Virginia and holding an occupational permit issued by the Racing Commission; or

48.2.b.3. A non-injectable non-prescription medication or substance.

48.2.c. No person, other than a veterinarian licensed to practice veterinary medicine in the state of West Virginia and holding an occupational permit issued by the Racing Commission shall possess a hypodermic needle, syringe or injectable of any kind on association grounds, unless otherwise approved by the stewards or the Racing Commission. At any location under the jurisdiction of the Racing Commission, veterinarians may use only one-time disposable needles, and shall dispose of them in a manner approved by the Racing Commission veterinarian(s). If a person has a medical condition which makes it necessary to have a syringe at any location under the jurisdiction of the Racing Commission, that person may request permission of the stewards and/or the Commission to have a syringe. Such a request shall be in writing and shall be accompanied by a statement from a licensed physician explaining why it is necessary for the person to possess a syringe. If permission is granted to any person to have a syringe at any location under the Racing Commission's jurisdiction, the stewards and/or the Commission may impose conditions and/or restrictions in connection with such approval.

48.2.d. Practicing veterinarians shall not have contact with an entered horse on a race day except for the administration of furosemide (lasix®) under the guidelines set forth subsection 49.7. of this rule unless approved by a Racing Commission veterinarian.

48.3. **Veterinarians' Reports.** Every veterinarian who treats a racehorse at any location under the jurisdiction of the Racing Commission shall record in writing the name of the horse treated, any medication, drug, substance, or procedure administered or prescribed, the name of the trainer of the horse, the date and time of treatment and any other information requested by a Racing Commission veterinarian(s). The veterinarian treating the racehorse shall sign each written record of

treatment and shall provide such treatment records to the stewards and/or the Racing Commission veterinarian(s) upon request. Any veterinarian who falsifies any treatment record or who fails to maintain treatment records may be disciplined by the stewards or the Racing Commission.

48.4. Prohibited Practices. The following are prohibited practices:

48.4.a. The possession or use of a drug, substance or medication on the premises of a facility under the jurisdiction of the Commission for which a recognized analytical method has not been developed to detect and confirm the administration of such substance; or the use of which may endanger the health and welfare of the horse or endanger the safety of the rider; or the use of which may adversely affect the integrity of racing; or

48.4.b. The possession or use of a drug, substance, or medication on the premises of a facility under the jurisdiction of the Racing Commission that has not been approved by the United States Food and Drug Administration (FDA) for any use in humans or animals is forbidden without prior permission of the Racing Commission or a Racing Commission veterinarian. This rule shall not restrict the recognized off-label use of any FDA approved medication.

48.4.c. The possession and/or use of blood doping agents (agents that abnormally enhance the oxygenation of body tissue), including but not limited to those listed below, on the premises of a facility under the jurisdiction of the Racing Commission is forbidden:

48.4.c.1.Erythropoietin;

48.4.c.2. Darbepoetin;

48.4.c.3. Oxyglobin®;

48.4.c.4. Hemopure®; and

48.4.c.5. Aransep.

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

48.4.d.1. Any treated horse shall not be permitted to race for a minimum of ten (10) days following treatment;

48.4.d.2. The use of extracorporeal shock wave therapy or radial pulse wave therapy machines shall be limited to veterinarians holding occupational permits issued by the Commission;

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

48.4.d.4. All extracorporeal shock wave therapy or radial pulse wave therapy treatments must be reported to a Racing Commission veterinarian on a prescribed form not later than the time established by a Racing Commission veterinarian.

48.4.e. The use of a nasogastric tube (a tube longer than six inches) for the administration of any substance within twenty-four (24) hours prior to the post time of a race in which the horse is entered is prohibited without the prior permission of a Racing Commission veterinarian or his or her designee.

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

49.1. General. Upon a finding of a violation of this medication and prohibited substances rule, the stewards shall consider the classification level of the violation as listed in the Uniform Classification Guidelines of Foreign Substances as promulgated by the Association of Racing Commissioners International (RCI) (revised January 2010), set forth in table 178-1 D at the end of this rule. Imposition of penalties and disciplinary action by the stewards for a violation of this medication and prohibited substances rule shall be consistent with the penalty guidelines set forth in table 178-1 E at the end of this rule. The stewards may also consult with a Racing Commission veterinarian to determine if the violation was a result of the administration of a therapeutic medication as documented in a veterinarian's treatment record per subsection 48.3. The stewards may also consult with the laboratory director or other individuals to determine the seriousness of the laboratory finding or the medication violation. Penalties for all medication and drug violations shall be investigated, reviewed and determined on a case by case basis. As a result of the investigation, there may be mitigating circumstances for which a lesser or no penalty is appropriate for the permit holder and aggravating factors, which may increase the penalty beyond the minimum. Factors that may be considered are:

49.1.a. The past record of the trainer, veterinarian and/or owner in drug cases;

49.1.b. The potential of the drug(s) to influence a horse's racing performance;

49.1.c. The legal availability of the drug;

49.1.d. Whether there is reason to believe the responsible party knew of the administration of the drug or intentionally administered the drug;

49.1.e. The steps taken by the trainer to safeguard the horse;

49.1.f. The probability of environmental contamination or inadvertent exposure due to human drug use;

49.1.g. The purse of the race;

49.1.h. Whether the drug found was one for which the horse was receiving a treatment as documented by the treating veterinarian's treatment records;

49.1.i. Whether there was any suspicious betting pattern in the race,

49.1.j. Whether the trainer was acting under the advice of a veterinarian licensed to practice in West Virginia and holding an occupational permit issued by the Racing Commission; and

49.1.k. Any other factors deemed relevant by the stewards.

49.2. Uniform Classification Guidelines. The following outline describes the types of substances placed in each category of the Uniform Classification Guidelines of Foreign Substances as promulgated by the Association of Racing Commissioners International (RCI) (revised January 2010), set forth in table 178-1 D at the end of this rule. The Guidelines shall be publicly posted in the offices of the Racing Commission veterinarian(s) and the association's racing secretary.

49.2.a. Class 1. Opiates, opium derivatives, synthetic opioids,

psychoactive drugs, amphetamines and United States Drug Enforcement Agency (DEA) scheduled I and II drugs. Also found in this class are drugs which are potent stimulants of the nervous system. Drugs in this class have no generally accepted medical use in the racehorse and their pharmacological potential for altering the performance of a race is very high.

49.2.b. Class 2. Drugs in this category have a high potential for affecting the outcome of a race. Most are not generally accepted as therapeutic agents in the racehorse. Many are products intended to alter consciousness or the psychic state of humans, and have no approved or indicated use in the horse. Some, such as injectable local anesthetics, have legitimate use in equine medicine, but should not be found in a racehorse. The following groups of drugs are in this class:

49.2.b.1. Opiate partial agonists, or agonist-antagonists;

49.2.b.2. Non-opiate psychotropic drugs, which may have stimulant, depressant, analgesic or neuroleptic effects;

49.2.b.3. Miscellaneous drugs which might have a stimulant effect on the central nervous system (CNS);

49.2.b.4. Drugs with prominent CNS depressant action;

49.2.b.5. Antidepressant and antipsychotic drugs, with or without prominent CNS stimulatory or depressant effects;

49.2.b.6. Muscle blocking drugs which have a direct neuromuscular blocking action;

49.2.b.7. Local anesthetics which have a reasonable potential for use as nerve blocking agents (except procaine); and

49.2.b.8. Snake venoms and other biologic substances, which may be used as nerve blocking agents.

49.2.c. Class 3. Drugs in this class may or may not have an accepted therapeutic use in the horse. Many are drugs that affect the cardiovascular, pulmonary and autonomic nervous systems. They all have the potential of affecting the performance of a racehorse. The following groups of drugs are in this class:

49.2.c.1. Drugs affecting the autonomic nervous system which do not have prominent CNS effects, but which do have prominent cardiovascular or respiratory system effects (bronchodilators are included in this class);

49.2.c.2. A local anesthetic which has nerve blocking potential but also has a high potential for producing urine residue levels from a method of use not related to the anesthetic effect of the drug (procaine);

49.2.c.3. Miscellaneous drugs with mild sedative action, such as the sleep inducing antihistamines;

49.2.c.4. Primary vasodilating/hypotensive agents; and

49.2.c.5. Potent diuretics affecting renal function and body fluid composition.

49.2.d. Class 4. This category is comprised primarily of therapeutic medications routinely used in racehorses. These may influence performance, but generally have a

more limited ability to do so. Groups of drugs assigned to this category include the following:

49.2.d.1. Non-opiate drugs which have a mild central analgesic effect;

49.2.d.2. Drugs affecting the autonomic nervous system which do not have prominent CNS, cardiovascular or respiratory effects;

49.2.d.3. Drugs used solely as topical vasoconstrictors or decongestants;

49.2.d.4. Drugs used as gastrointestinal antispasmodics;

49.2.d.5. Drugs used to void the urinary bladder;

49 .2.d.6. Drugs with a major effect on CNS vasculature or smooth muscle of visceral organs;

49.2.d.7. Antihistamines which do not have a significant CNS depressant effect (This does not include H1 blocking agents, which are listed in Class 5);

49.2.d.8. Mineralocorticoid drugs;

49.2.d.9. Skeletal muscle relaxants;

49.2.d.10. Anti-inflammatory drugs--those that may reduce pain as a consequence of their anti-inflammatory actions, which include:

49.2.d.10.A. Non-Steroidal Anti-Inflammatory Drugs (NSAIDs);

49.2.d.10.B. Corticosteroids (glucocorticoids); and

49.2.d.10.C. Miscellaneous anti-inflammatory agents.

49.2.d.11. Anabolic and/or androgenic steroids and other drugs;

49.2.d.12. Less potent diuretics;

49.2.d.13. Cardiac glycosides and antiarrhythmics including:

49.2.d.13.A. Cardiac glycosides;

49.2.d.13.B. Antirryhthmic agents (exclusive of lidocaine, bretylium and propanolol); and

49.2.d.13.C. Miscellaneous cardiotonic drugs.

49.2.d.14. Topical Anesthetics--agents not available in injectable formulations;

49.2.d.15. Antidiarrheal agents; and

49.2.d.16. Miscellaneous drugs including:

49.2.d.16.A. Expectorants with little or no other pharmacologic action;

49.2.d.16.B. Stomachics; and

49.2.d.16.C. Mucolytic agents.

49.2.e. **Class 5.** Drugs in this category are therapeutic medications for which concentration limits have been established as well as certain miscellaneous agents. Included specifically are agents, which have very localized action only, such as anti-ulcer drugs and certain anti-allergenic drugs. The anticoagulant drugs are also included.

49.3. **Penalties.** The following provisions apply to penalties for violations of this medication and prohibited substance rule:

49.3.a. Upon a finding that an occupational permit holder is in violation of this medication and prohibited substance rule, the stewards or the Racing Commission may, in their discretion, issue a reprimand or warning, assess a fine, require forfeiture or redistribution of a purse or award, place a permit holder on probation, suspend a permit or racing privileges, revoke a permit, exclude the permit holder from grounds under the jurisdiction of the Racing Commission, or impose any combination of these penalties.

49.3.b. In issuing penalties against individuals found guilty of medication and drug violations a regulatory distinction shall be made between the detection of therapeutic medications used routinely to treat racehorses and those drugs that have no reason to be found at any concentration in the test sample on race day.

49.3.c. The stewards or the Racing Commission shall use the Racing Medication and Testing Consortium's (RMTC) penalty category (designated by the letters "A", "B", "C" and "D" as shown on the Uniform Classification Guidelines of Foreign Substances as promulgated by the Association of Racing Commissioners International (RCI) (revised January 2010), set forth in table 178-1 D at the end of this rule) and the penalty guidelines set forth in table 178-1 E at the end of this rule as a starting place in the penalty stage of the deliberations for a rule violation for any drug listed in the Uniform Classification Guidelines of Foreign Substances as promulgated by the Association of Racing Commissioners International (RCI) (revised January 2010), set forth in table 178-1 D at the end of this rule.

49.3.d. The penalty guidelines for those drugs designated a penalty category of "A", "B" or "C" are set forth in table 178-1 E at the end of this rule. The recommended penalty for a violation involving a drug that carries a category "D" penalty is a written warning to the trainer and/or owner. Multiple violations may result in fines and/or suspensions.

49.3.e. If a practicing veterinarian is administering or prescribing a drug not listed in the Uniform Classification Guidelines of Foreign Substances as promulgated by the Association of Racing Commissioners International (RCI) (revised January 2010), set forth in table 178-1 D at the end of this rule, the identity of the drug shall be forwarded to a Racing Commission veterinarian(s) to be forwarded to the Racing Medication and Testing Consortium (RMTC) for classification.

49.3.f. In the event that any drug or metabolite thereof is found to be present in a pre- or post-race sample and the drug or metabolite is not classified in the Uniform Classification Guidelines of Foreign Substances as promulgated by the Association of Racing Commissioners International (RCI) (revised January 2010), set forth in table 178-1 D at the end of this rule, the Racing Commission shall cause the sample to be sent to the Racing Medication and Testing Consortium (RMTC) for a determination of the appropriate classification and penalty category. Upon a determination of classification and penalty category, the trainer and owner shall be subject

to the appropriate penalties as set forth in table 178-1 E at the end of this rule.

49.3.g. Any Racing Commission permit holder, including practicing veterinarians, found to be responsible for the improper or intentional administration of any drug resulting in a positive test may, after proper notice and hearing, be subject to the same penalties set forth in table 178-1 E at the end of this rule for trainers holding occupational permits.

49.3.h. The owner, veterinarian or any other party holding an occupational permit involved in a positive laboratory finding shall be notified in writing of the hearing and any resulting action. In addition, their presence may be required at any and all hearings relative to the case.

49.3.i. Any practicing veterinarian found to be involved in the administration of any Class 1 drug may be referred to the West Virginia Board of Veterinary Medicine for consideration of disciplinary action against the veterinarian's license to practice in the state of West Virginia. This is in addition to any penalties issued by the stewards or the Racing Commission against the practicing veterinarian's occupational permit.

49.3.j. Any person who the stewards or the Racing Commission believe may have committed acts in violation of criminal statutes may be referred to the appropriate law enforcement agency.

49.3.k. Administrative action taken by the stewards or the Racing Commission in no way prohibits a prosecution for criminal acts committed, nor does a potential criminal prosecution stall administrative action by the stewards or the Commission.

49.3.*l*. Procedures shall be established by the stewards to ensure that a trainer holding an occupational permit is not able to benefit financially during the period for which he or she has been suspended. This includes, but is not limited to, ensuring that horses are not transferred to family members holding occupational permits.

49.4. Medication Restrictions. The following provisions apply to medication restrictions:

49.4.a. A finding by a Racing Commission approved laboratory of a prohibited drug, chemical or other substance in a test specimen of a horse is prima facie evidence that the prohibited drug, chemical or other substance was administered to the horse and, in the case of a post-race test, was present in the horse's body while it was participating in a race. Prohibited substances include:

49.4.a.1. Drugs or medications for which no acceptable threshold concentration has been established;

49.4.a.2. Therapeutic medications in excess of established threshold concentrations;

49.4.a.3. Substances present in the horse in excess of concentrations at which such substances could occur naturally; and

49.4.a.4. Substances foreign to a horse at concentrations that cause interference with testing procedures.

49.4.b. Except as otherwise provided by this rule, a person may not administer or cause to be administered by any means to a horse a prohibited drug, medication, chemical or other substance, including any restricted medication pursuant to this rule during

the twenty-four (24) hour period before post time for the race in which the horse is entered.

49.5. Medical Labeling. The following provisions apply to medical labeling:

49.5.a. No person on association grounds where horses are lodged or kept, excluding practicing veterinarians, shall have in or upon association grounds which that person occupies or has the right to occupy, or in that person's personal property or effects or vehicle in that person's care, custody or control, a drug, medication, chemical, foreign substance or other substance that is prohibited in a horse on a race day unless the product is labeled in accordance with this subsection.

49.5.b. Any drug or medication which is used or kept on association grounds and which, by federal or state law, requires a prescription must have been validly prescribed by a duly licensed veterinarian, and in compliance with the applicable state statutes. All such allowable medications must have a prescription label which is securely attached and clearly ascribed to show the following:

49.5.b.1. The name of the product;

49.5.b.2. The name, address and telephone number of the veterinarian prescribing or dispensing the product;

49.5.b.3. The name of each patient (horse) for whom the product is intended/prescribed;

49.5.b.4. The dose, dosage, duration of treatment and expiration date of the prescribed/dispensed product; and

49.5.b.5. The name of the person (trainer) to whom the product was dispensed.

49.6. Non-Steroidal Anti-Inflammatory Drugs (NSAIDs). The following provisions apply to NSAIDs:

49.6.a. The use of one (1) of three (3) approved NSAIDs shall be permitted under the following conditions:

49.6.a.1. Not to exceed the following permitted serum or plasma threshold concentrations which are consistent with administration by a single intravenous injection at least twenty-four (24) hours before post time for the race in which the horse is entered:

49.6.a.1.A. Phenylbutazone (or its metabolite oxyphenylbutazone) – 5 micrograms per milliliter;

49.6.a.1.B. Flunixin – 20 nanograms per milliliter;

49.6.a.1.C. Ketoprofen – 10 nanograms per milliliter.

49.6.a.2. These or any other NSAID are prohibited to be administered within twenty-four (24) hours before post time for the race in which the horse is entered.

49.6.a.3. The presence of more than one (1) of the three (3) approved NSAIDs, with the exception of phenylbutazone in a concentration below one (1) microgram per milliliter of serum or plasma or any unapproved NSAID in the post-race serum or plasma sample is not permitted. The use of all but one (1) of the approved NSAIDs shall be discontinued at least forty-eight (48) hours before post time for the race in which the horse is entered.

49.6.b. Any horse to which a NSAID has been administered shall be subject to having a blood and/or urine sample(s) taken at the direction of a Racing Commission veterinarian or the stewards to determine the quantitative NSAID level(s) and/or the presence of other drugs which may be present in the blood or urine sample(s).

49.7. Furosemide (Lasix®). The following provisions apply to furosemide (lasix®):

49.7.a. The administration of furosemide (lasix®) to a horse is permissible if:

49.7.a.1. The administration is recommended by a practicing veterinarian holding an occupational permit issued by the Racing Commission;

49.7.a.2. The recommendation is submitted to a Racing Commission veterinarian in writing; and

49.7.a.3. The trainer declares the use of furosemide (lasix®) at the time of entry.

49.7.b. The administration of the adjunct medications described in this subsection is permissible if there is compliance with the provisions of this subsection.

49.7.c. A Racing Commission veterinarian is responsible for maintaining up-to-date records of horses which are permitted to use furosemide (lasix®), and these records shall be available for inspection during the horse of operation of the racetrack.

49.7.d. Race day administration of furosemide (lasix®) is permitted as follows:

49.7.d.1. A horse scheduled to race that is permitted to use furosemide (lasix®) shall be administered furosemide (lasix®) by a veterinarian holding a permit issued by the Racing Commission before the running of the race unless, under subdivision 49.7.h. of this rule, the horse has been declared off of furosemide (lasix®) by its owner or trainer.

49.7.d.2. As indicated by post-race quantitation, a horse may not carry in its body at the time of the running of a race more than 100 nanograms of furosemide (lasix®) per milliliter of plasma.

49.7.e. The practicing veterinarian who administers furosemide (lasix®) to a horse scheduled to race shall prepare a written certification indicating:

49.7.e.1. That furosemide (lasix®) was administered; and

49.7.e.2. If applicable, each adjunct medication that was administered.

49.7.f. The written certification set forth in subdivision 49.7.e. of this rule shall be in the possession of a designated Commission representative at least one (1) hour before the horse is scheduled to race.

49.7.g. The stewards shall order a horse scratched if the written certification set forth in subdivision 49.7.e. is not received in a timely manner.

49.7.h. The following provisions apply to racing off of furosemide (lasix®):

49.7.h.1. A horse on the furosemide (lasix®) program that races without furosemide (lasix®) in any jurisdiction which permits the use of furosemide (lasix®) may not be eligible for its use for a period of sixty (60) days.

49.7.h.2. To become eligible after sixty (60) days, the horse shall have been observed to have bled by a Racing Commission veterinarian either:

49.7.h.2.A. Externally; or

49.7.h.2.B. By endoscopic examination.

49.7.i. The following provisions apply to program notice requirements for horses on furosemide (lasix®):

49.7.i.1. Of the horses scheduled to race, the official program shall denote the horses which have been administered:

49.7.i.1.A. Furosemide (lasix®);

49.7.i.1.B. Furosemide (lasix®) for the first time; and

49.7.i.1.C. Furosemide (lasix®) and one or more adjunct medications.

49.7.i.2. If the official program contains past performance lines, each past performance line shall indicate if the horse was administered;

49.7.i.2.A. Furosemide (lasix®); or

49.7.i.2.B. Furosemide (lasix®) and an adjunct medication.

49.7.j. The following provisions apply to adjunct medications:

49.7.j.1. The following medications may be administered to a horse in conjunction with furosemide (lasix®):

49.7.j.1.A. Aminocaproic acid;

49.7.j.1.B. Tranexamic acid; and

49.7.j.1.C. Carbazochrome.

49.7.j.2. If a horse is to receive one or more adjunct medications as described in paragraph 49.7.j.1. of this rule:

49.7.j.2.A. The trainer of the horse, at the time of entry, shall declare the use of adjunct medication; and

49.7.j.2.B. The veterinarian who administers an adjunct medication shall report each specific adjunct medication administered on the same form used to report the administration of furosemide (lasix®) as required by subdivision 49.7.e. of this rule.

49.8. Bleeder List. The following provisions apply to the bleeder list:

49.8.a. A list of all horses which have demonstrated external evidence of exercise induced pulmonary hemorrhage from one or both nostrils during or after a race or workout within the last two (2) years shall be maintained by the Racing Commission veterinarian(s) and the list shall be published in the association's racing secretary's office.

49.8.b. A first time bleeder shall be placed on the veterinarian's 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 forty-five (45) calendar days. A bleeder in these categories is automatically released from the list after the expiration of these time periods. 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.

49.9. Anti-Ulcer Medications. The following anti-ulcer medications are permitted to be administered, at the stated dosage, up to twenty-four (24) hours prior to the race in which the horse is entered:

49.9.a. Cimetidine (Tagamet®) – 8-20 mg/kg PO BID-TID;

49.9.b. Omeprazole (Gastrogard®) – 2.2 grams PO SID; and

49.9.c. Ranitidine (Zantac®) – 8 mg/kg PO BID.

49.10. Environmental Contaminants and Substances of Human Use. The following provisions apply to environmental contaminants and substances of human use:

49.10.a. It is recognized that there are substances that can be environmental contaminants in that they are endogenous to the horse or that they can arise from plants traditionally grazed or harvested as equine feed or are present in equine feed because of contamination during the cultivation, processing, treatment, storage or transportation phases. It is also recognized that there are drugs of human use and addiction and which could be found in the horse due to its close association with humans. Therefore, if an owner/trainer wishes to contest a positive test by presenting a defense that the test is the result of environmental contamination or inadvertent exposure due to human drug use, he or she must prove such defense by a preponderance of evidence presented in a hearing. If an owner/trainer proves such defense by a preponderance of evidence, it may be considered as a mitigating factor in any disciplinary action taken against the affected owner/trainer.

49.10.b. Although caffeine may be found in a horse due to environmental contamination/inadvertent exposure, no sample or specimen shall exceed the level of 100 nanograms per milliliter of serum or plasma when tested post race.

49.11. Androgenic-Anabolic Steroids (AAS). The following provisions apply to androgenic-anabolic steroids (AAS):

49.11.a. No AAS shall be permitted in test sample collected from racing horses except for residues of the major metabolite of stanozolol, nandrolone, and the naturally occurring substances boldenone and testosterone at concentrations less than the indicated thresholds.

49.11.b. Concentrations of these AAS shall not exceed the following urine threshold concentrations for total (*i.e.*, free drug or metabolite and drug or metabolite liberated from its conjugates):

49.11.b.1. 16β-hydroxystanozolol (metabolite of stanozolol (Winstrol)) – 1 ng/ml in urine for all horses regardless of sex;

49.11.b.2. Boldenone (Equipoise® is the undecylenate ester of boldenone) in male horses other than geldings – 15 ng/ml in urine. No boldenone shall be permitted in geldings or female horses;

49.11.b.3. Nandrolone (Durabolin® is the phenylpropionate ester and Deca-Durabolin® is the decanoate ester):

49.11.b.3.A. In geldings - 1 ng/ml in urine

49.11.b.3.B. In fillies and mares – 1 ng/ml in urine

49.11.b.4. Testosterone

49.11.b.4.A. In geldings – 20 ng/ml in urine

49.11.b.4.B. In fillies and mares – 55 ng/ml in urine

49.11.c. Any other anabolic steroids are prohibited in racing horses.

49.11.d. If a test on a horse exceeds the above-referenced urine thresholds for Boldenone, Nandrolone or Testosterone and the owner/trainer of the horse desires to have further testing to determine whether or not there is reliable proof that the amount found in the horse is naturally occurring, the owner/trainer may request that such testing be undertaken and the owner shall bear the costs of the additional testing.

49.11.e. Post-race urine samples must have the sex of the horse identified to the laboratory.

49.11.f. Any horse to which an anabolic steroid has been administered in order to assist in the recovery from illness or injury may be placed on the veterinarian's list in order to monitor the concentration of the drug or metabolite in urine. After the concentration has fallen below the designated threshold for the administrated AAS, the horse is eligible to be removed from the list.

49.12. Alkalinizing Substances. The use of agents that elevate the horse's TCO2 or base excess level above those existing naturally in the untreated horse at normal physiological concentrations is prohibited. The following levels also apply to blood gas analysis:

49.12.a. The regulatory threshold for TCO2 is 37.0 millimoles per liter of plasma/serum or a base excess level of 10.0 millimoles, and;

49.12.b. The decision level to be used for the regulation of TCO2 is 37.0 millimoles per liter of plasma/serum plus the measurement uncertainty of the laboratory analyzing the sample, or a base excess level of 10.4 millimoles per liter of plasma/serum.

49.13. Out of Competition Testing for Blood and/or Gene Doping Agents. The following provisions apply to out of competition testing for blood an/or gene doping agents:

49.13.a. Any horse on the grounds at a racetrack under the jurisdiction of the Racing Commission; or under the care or control of trainer or owner holding an occupational permit issued by the Racing Commission is subject to testing for blood and/or gene doping agents without advance notice. This rule does not apply to therapeutic medications approved by the FDA for use in the horse and the recognized off-label use of any FDA approved medication.

49.13.b. Horses to be tested may be selected at random, with probable cause, or as determined by the Racing Commission or the stewards.

49.13.c. A Racing Commission veterinarian, or any practicing veterinarian holding an occupational permit or a licensed veterinary technician authorized by the Racing Commission, may at any time, take a urine, blood or hair sample from a horse for this purpose.

49.13.d. Prohibited substances, practices and procedures are defined as:

49.13.d.1. Blood doping agents including, but not limited to Erthropoietin (EPO), Darbepoetin, Oxyglobin®,

Hemopure®, Aransep or any substance that abnormally enhances the oxygenation of body tissues.

49.13.d.1. Gene doping agents or the non-therapeutic use of genes, genetic elements, and/or cells that have the capacity to enhance athletic performance or produce analgesia.

49.13.e. Cooperation with the Racing Commission veterinarian, or any practicing veterinarian or licensed veterinary technician authorized by the Racing Commission, includes:

49.13.e.1. Assisting in the immediate location and identification of the horse selected for out of competition testing;

49.13.e.2. Providing a stall or safe location to collect the samples;

49.13.e.3. Assisting the veterinarian in properly procuring the samples;

49.13.e.4. Split samples will be collected as set forth in this rule.

49.13.f. Out of competition samples will be sent to the official laboratory of the Racing Commission, or other laboratory as designated by the Commission with reports made in accordance with the provisions of these medication rules and the penalty provisions thereof.

49.14. American Graded Stakes Races. For any race in this state that has been issued a grade by the American Graded Stakes Committee, the stewards may allow the drug testing protocol established by the American Graded Stakes Committee to be followed in that race. The association shall notify the Racing Commission and the stewards upon the issuance of a grade for a race by the American Graded Stakes Committee so that the stewards may allow the appropriate drug testing protocol to be administered and enforced. A copy of the drug testing protocol in graded stakes races shall be published in the office of the association's racing secretary.

§178-1-50. Testing.

50.1. Reporting to the Test Barn. The following provisions apply to reporting to the test barn:

50.1.a. The official winning horse and any other horse ordered by the stewards shall be taken immediately after a race to the test barn to provide specimens of urine, blood or other bodily substances or tissues at the direction of a Racing Commission veterinarian.

50.1.b. After each race, security personnel shall maintain uninterrupted observation of the horse or horses to be tested from the unsaddling area and/or the racetrack to the test barn.

50.1.c. The stewards or a Racing Commission veterinarian(s) may require at any time that any horse be sent to the test barn to provide specimens of urine, blood or other bodily substances or tissues, as well as for an examination for sponging, and any other examination as may be directed by the stewards or a Racing Commission veterinarian.

50.1.d. The stewards or a Racing Commission veterinarian may also require any horse stabled at a racetrack to provide specimens of urine, blood or other bodily substances or tissues.

50.1.e. A Racing Commission veterinarian or the stewards may authorize a horse to return to its barn under security for the purpose of collecting specimens.

50.1.f. A security guard shall monitor access to the test barn during its operation. The security guard shall require all persons entering the test barn to sign in and sign out on a log to be maintained at the test barn.

50.1.g. No more than two (2) persons shall accompany the horse into the test barn. Such persons must hold occupational permits issued by the Racing Commission and must have a legitimate reason for being in the test barn area. No horse or persons accompanying it shall be permitted to leave the test barn until the specimens have been obtained or until they have been otherwise excused by a Racing Commission veterinarian.

50.1.h. Once any person accompanying a horse into the test barn has departed the test barn, he or she shall not be permitted to reenter, unless reentering to attend to a different horse. This prohibition does not apply to the trainer of a horse in the test barn, the Racing Commission veterinarian(s), practicing veterinarians attending to horses in the test barn, or other Racing Commission personnel.

50.1.i. All veterinary technicians or assistants collecting specimens shall remain in the test barn after the arrival of the first horse until they have completed their duties, unless excused by a Racing Commission veterinarian.

50.1.j. Random or extra testing may be required by the stewards or the Commission at any time on any horse on association grounds.

50.2. Official chemists. The following provisions apply to official chemists:

50.2.a. The official chemists selected by the Racing Commission to engage in either primary or split post-race specimen or sample analysis 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 and the chief steward at the appropriate racetrack.

50.2.b. In order for a chemist to be selected by the Racing Commission to engage in split post-race specimen or sample analysis, it shall establish reasonable fees for split sample testing based on its actual cost of testing.

50.2.c. A split sample testing laboratory shall be a member in good standing of the Association of Official Racing Chemists and approved by the Racing Commission.

50.3. Specimen Collection. The following provisions apply to specimen collection:

50.3.a. Specimen collection shall be done in accordance with the guidelines and instructions provided by a Racing Commission veterinarian.

50.3.b. The Racing Commission veterinarian shall determine a minimum specimen requirement for the primary official chemist.

50.3.c. If the specimen obtained from a horse is less than the minimum sample requirement, the entire specimen shall be sent to the primary testing laboratory and the results of tests performed on the specimen shall be considered prima facie evidence of the condition of the horse.

50.3.d. If a specimen obtained is greater than the minimum sample requirement but less than twice that amount, the portion of the sample that is greater than the minimum sample requirement shall be secured as the split sample.

50.3.e. If a specimen obtained is greater than twice the minimum sample requirement, a portion of the sample approximately equal to the amount provided for the primary testing laboratory shall be secured as the split sample.

50.3.f. A Racing Commission veterinarian shall retain the part of the specimen that is not sent to the primary testing laboratory.

50.3.g. All blood and urine specimens shall be frozen. The racing association shall pay all laboratory expenses for blood and urine analysis.

50.3.h. Specimens of other bodily substances or tissues may be collected and forwarded to an official chemist by a Racing Commission veterinarian or his or her designee. The Racing Commission shall pay all laboratory expenses for analysis of such bodily substances or tissues.

50.3.i. Any specimen collected from a horse, and all reports of any testing of these specimens, is the property of the Racing Commission.

50.3.j. The owner, trainer, or other authorized representative shall be present when a specimen is taken from his or her horse. The owner, trainer or other authorized representative shall remain until the specimen is sealed and shall sign the official form as witness to the taking of the specimen. Failing to be present when taking any specimen or refusal to allow the taking of any specimen by any means shall subject the person or persons guilty of violating this rule to summary suspension of their occupational permit by the stewards.

50.3.k. All specimens taken by or under direction of the Racing Commission veterinarian or other authorized representative of the Racing Commission shall be delivered to an official chemist for analysis. Each specimen shall be marked and bear any information that is essential to its proper analysis. However, 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 or her staff. The container of each specimen shall be sealed as soon as the specimen is placed in it.

50.3.*l*. Blood samples shall be split in a manner that minimizes hemolysis. Blood samples shall be mixed and centrifuge and the plasma separated and stored frozen.

50.3.m. If the split sample testing laboratory determines that there is insufficient sample volume to make a specific identification of the sample contents, or if events 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.

50.3.n. If the results of the initial test on a specimen are negative, a Racing Commission 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, a 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.

50.3.o. The official chemist of the primary testing laboratory shall reveal the identity of the drug or drug metabolites to the split sample laboratory. Communication between the primary and split laboratory is limited to the exchange of the analytical method and the threshold level used to confirm the drug's identity.

50.3.p. The results of all tests performed by the primary testing laboratory are confidential and shall only be communicated to the chief steward, who shall notify the trainer in a timely manner.

50.3.q. A Racing Commission veterinarian, the stewards or authorized representatives of the Racing Commission may take samples of any medications or other materials suspected of containing improper medication or drugs which may be found in the stables or elsewhere on association grounds, or in the possession of any person connected with racing. A Racing Commission veterinarian shall deliver the sample of any medication or other materials suspected of containing improper medication to an official chemist for analysis under the same conditions as are prescribed for analysis of other specimens. The stewards may retain the sample.

50.3.r. No action shall be taken by the stewards on the report of an official chemist unless and until the medication or drug has been properly identified along with the identity of 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 chief steward at the appropriate racetrack.

50.4. Alkalinizing Substances. The following provisions apply to the testing for alkalinizing substances:

50.4.a. The stewards or a Racing Commission veterinarian may, at their discretion and at any time, order the collection of specimens from any horse present on association grounds for determination of serum or plasma pH or concentration of bicarbonate, carbon dioxide, or electrolytes.

50.4.b. Pre-race specimen collection and pre-race testing may be done at a time and manner directed by a Racing Commission veterinarian.

50.4.c. Pre-race specimen collection and post-race testing may be done at a time and manner directed by a Racing Commission veterinarian. Pre-race specimens collected for post-race testing may be ordered by a Racing Commission veterinarian not to be frozen to ensure effective and reliable testing.

50.4.d. Post-race specimen collection and post-race testing may be done at a time and manner directed by a Racing Commission veterinarian.

50.4.e. If a specimen is collected post-race, it shall be taken from the horse within one (1) hour after racing.

50.4.f. Subsection 50.3 of this rule pertaining to specimen collection and subsection 50.5 of this rule pertaining to storage and shipment of split samples shall not apply to specimens collected for the testing for alkalinizing substances.

50.5. Storage and Shipment of Split Samples. The following provisions apply to the storage and shipment of split samples:

50.5.a. Split samples obtained from the horse shall be secured by a Racing Commission veterinarian and made available for further testing in accordance with the following procedures:

50.5.a.1. A Racing Commission veterinarian shall secure a split sample in the test barn under the same manner as the portion of the specimen acquired for shipment to a primary laboratory until the time that specimens are packed and secured for shipment to the primary laboratory. The Racing Commission veterinarian shall store the split

sample in a freezer at a secure location approved by the Racing Commission;

50.5.a.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; and

50.5.a.3. A Racing Commission veterinarian shall immediately report any evidence of a malfunction of a split sample freezer or samples that are not in a frozen condition during storage to the stewards or a designated Racing Commission representative.

50.5.b. A trainer or owner of a horse, after notification that a written report from a primary laboratory states that a prohibited substance or illegal level of a permitted substance has been found in a specimen obtained pursuant to this rule, may request that a split sample corresponding to the portion of the specimen tested by the primary laboratory be sent for testing by a testing laboratory that is identified on the list of approved laboratories maintained by the Racing Commission.

50.5.c. Prior to shipment, the representative of the Racing Commission shall confirm the split sample laboratory's willingness to provide the testing requested, the laboratory's willingness to send results to the chief steward and arrangements for payment satisfactory to the split sample laboratory.

50.5.d. The request shall be made in writing and delivered to the stewards not later than seventy-two (72) hours after the trainer of the horse receives written notice of the findings of the primary laboratory. A Racing Commission veterinarian shall ship any requested split samples within seven (7) business days of the request.

50.5.e. 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 shall procure prior written authorization from his or her owner to waive that right.

50.5.f. The owner or trainer of a horse who submits a specimen for drug testing shall be present or have a representative present at the time that the retained part of the specimen is prepared for storage.

50.5.g. The owner or trainer of a horse who submits a specimen for testing to a split sample laboratory shall, if requested by the laboratory, execute a hold harmless agreement for the split sample laboratory and shall execute 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 chief steward of the racetrack at which the positive result was reported.

50.5.h. The owner or trainer requesting testing of a split sample is responsible for the cost of shipping and testing. Failure of the owner, trainer or designee to appear at the time and place of shipping designated by a Racing Commission veterinarian constitutes a waiver of all rights to split sample testing.

50.5.i. 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 received by a Racing Commission veterinarian. The representative of the Racing Commission shall fully complete the form during the retrieval, packaging, and shipment of the split sample. The split sample chain of custody form shall contain:

50.5.i.1. the date and time the sample is removed from the split sample freezer;

50.5.i.2. the sample number;

50.5.i.3. the address where the split sample is to be sent;

50.5.i.4. the name of the carrier and the address where the sample is to be taken for shipment;

50.5.i.5. verification of retrieval of the split sample from the freezer;

50.5.i.6. verification of each specific step of the split sample packaging in accordance with the recommended procedure;

50.5.i.7. verification of the address of the split sample laboratory on the split sample package;

50.5.i.8. verification of the condition of the split sample package immediately prior to transfer of custody to the carrier; and

50.5.i.9. the date and time custody of the sample is transferred to the carrier.

50.5.j. A Racing Commission representative, in the presence of the owner or trainer, or his or her designee, shall remove a split sample from the split sample freezer.

50.5.k. The Racing Commission representative shall pack the split sample for shipment in the presence of the owner, or trainer, or designee in accordance with the packaging procedures set forth in this rule. A form shall be signed by both the owner or trainer or his or her designee 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.

50.5.*l*. 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, trainer or their designee.

50.5.m. The owner or 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.

50.5.n. 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 or designee. A Racing Commission representative shall keep the original and provide a copy for the owner or trainer.

50.5.o. The owner, trainer or their designee shall not correspond with the split sample testing laboratory, once the sample has been shipped to the laboratory.

50.5.p. The split sample laboratory shall send a confidential written report on the result of its tests to the chief steward.

50.5.q. No action shall be taken against the trainer or owner if the results of the split sample testing are negative or, in the instance of quantitative levels of permitted medications, where the confirmed levels are within the permitted levels.

50.5.r. 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 testing laboratory have been confirmed.

50.5.s. The owner or trainer shall be notified in writing of the results of the primary and split sample testing laboratories when confirmation of positives exists. When quantitative levels of permitted medications exceed the permitted levels, the level of the confirming laboratory, if lower than the primary laboratory report, shall be used as the basis for a violation and penalty.

§178-1-51. Trainer Responsibility.

51.1. The following provisions apply to the responsibilities of the trainer as they specifically relate to the health and well being of horses in her or her care, custody or control:

51.1.a. The trainer is the absolute insurer of and responsible for the condition of the horses he or she enters in an official workout or a race, regardless of the acts of third parties. If testing or analysis of urine, blood or other bodily substances or tissues prove positive showing the presence of any prohibited drug, medication or substance, the trainer of the horse may be fined, suspended, have his or her occupational permit revoked, be prohibited access to all grounds under the jurisdiction of the Racing Commission, or may be otherwise disciplined. 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, or attendance of the horse may be fined, suspended, have his or her occupational permit revoked, be prohibited access to all grounds under the jurisdiction of the Racing Commission, or may be otherwise disciplined.

51.1.b. The trainer is responsible for:

51.1.b.1. maintaining the assigned stable area in a clean, neat and sanitary condition at all times;

51.1.b.2. keeping all hay, grain and other feed covered and in a sanitary manner;

51.1.b.3. ensuring that fire prevention rules are strictly observed in the assigned stable area;

51.1.b.4. the proper identity, custody, care, health, condition and safety of horses in his or her charge;

51.1.b.5. ensuring that at the time of arrival at locations under the jurisdiction of the Commission a valid health certificate and a valid negative Equine Infectious Anemia (EIA) test certificate accompany each horse and which, where applicable, shall be filed with the association's racing secretary;

51.1.b.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 and for filing evidence of the negative test results with the association's racing secretary;

51.1.b.7. using the services of those veterinarians holding an occupational permit issued by the Racing Commission to attend horses that are on association grounds;

51.1.b.8. immediately reporting the alteration of the sex of a horse to the horse identifier and the association's racing secretary no later than at the time of entry so that

the information may recorded on the foal certificate;

51.1.b.9. promptly reporting to the association's racing secretary and a Racing Commission veterinarian when a posterior digital neurectomy (heel nerving) is performed and ensuring that such fact is designated on its certificate of registration;

51.1.b.10. promptly notifying a Racing Commission veterinarian of any reportable disease and any unusual incidence of a communicable illness in any horse in his or her charge;

51.1.b.11. promptly reporting the serious injury and/or death of any horse at locations under the jurisdiction of the Racing Commission to the stewards and a Racing Commission veterinarian and compliance with subsection 52.2. of this rule governing racing soundness examinations;

51.1.b.12. maintaining a knowledge of the medication record and status of all horses in his or her care;

51.1.b.13. immediately reporting to the stewards and a 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;

51.1.b.14. ensuring the fitness of a horse to perform creditably at the distance entered;

51.1.b.15. ensuring that every horse he/she has entered to race is present at its assigned stall for a pre-race soundness inspection;

51.1.b.16. ensuring that his or her horses are properly shod, bandaged and equipped; and

51.1.b.17. attending the collection of a specimen of urine, blood or other bodily substances or tissue or delegating such responsibility to an employee holding an occupational permit or to the owner.

§178-1-52. Physical Inspection of Horses.

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

52.2. Racing Soundness Examinations. The following provisions apply to racing soundness examinations:

52.2.a. A thoroughbred which suffers a breakdown on the race track, in training or in competition, and is euthanized, and every other thoroughbred which expires while stabled on a racetrack under the jurisdiction of the Racing Commission, may, in the discretion of a Racing Commission veterinarian, undergo an examination at a time and place acceptable to a Racing Commission veterinarian to determine the injury or sickness which resulted in euthanasia or death.

52.2.b. The examination allowed under this subsection will be conducted by a qualified professional selected by the Racing Commission or its designees.

52.2.c. Test specimens may be obtained from the expired or euthanized thoroughbred upon which the examination is conducted and may be sent to an official chemist approved by the Racing Commission for testing for foreign substances and natural substances at abnormal levels. When practical, specimens should be procured prior to euthanasia.

52.2.d. The Racing Commission shall be responsible for paying the costs of the examination conducted by its selected qualified professional. The Racing Commission shall also bear the costs of testing for foreign substances and natural substances at abnormal levels, if any such costs are incurred in connection with an examination. If any additional costs are incurred in connection with preserving and/or transporting an expired or euthanized thoroughbred for examination, the Racing Commission shall also bear those costs. If the owner of the deceased thoroughbred desires to have an examination and/or testing conducted independently of the examination and/or testing conducted by professionals selected by the Racing Commission, he or she shall bear the costs of such independent examination and/or testing.

52.2.e. A record of an examination performed by the qualified professional selected by the Racing Commission shall be filed with the Racing Commission within seventy-two (72) hours of the death or within such other period approved by the Racing Commission. A record of an examination performed at the request of the owner of the deceased thoroughbred shall be filed with the Racing Commission within such period of time as ordered by the Racing Commission

52.2.f. Each owner and trainer shall comply with this subsection as a requisite for maintaining the occupational permit issued by the Racing Commission.

§178-1-53. Isolation/Quarantine.

53.1. In case of any illness or unusual symptoms of illness in a horse which may be considered to be contagious, a Racing Commission veterinarian and/or the Commissioner of Agriculture have the authority to determine whether or not it is necessary to isolate or quarantine a horse. The decision of the Racing Commission veterinarian and/or the Commissioner of Agriculture with reference to the necessity of isolating any horse is binding upon the trainer and owner of the horse.

53.2. 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.

53.3. In the event of the positive diagnosis of any infectious disease, the diagnosed horse shall remain isolated and quarantined for a period of time determined by the Racing Commission veterinarian and/or the Commissioner of Agriculture.

53.4. No horse shall be removed from quarantine without permission of a Racing Commission veterinarian and/or the Commissioner of Agriculture.

53.5. The Racing Commission veterinarian shall immediately report all quarantines and removal from quarantines to the stewards.

PART 9. DUE PROCESS AND HEARINGS.

§178-1-54. Proceedings by the Stewards.

54.1. Rights of Permit Holder. A permit holder who is the subject of a disciplinary hearing conducted by the stewards is entitled to:

54.1.a. proper notice of all charges;

54.1.b. confront the evidence presented, including:

54.1.b.1. the right to counsel at the permit holder's expense;

54.1.b.2. the right to examine all evidence presented against him or her;

54.1.b.3. the right to present a defense;

54.1.b.4. the right to call witnesses;

54.1.b.5. the right to cross-examine witnesses; and

54.1.b.6. the right to waive any of the above rights.

54.2. Complaints. On their own motion or on receipt of a written complaint from a racing official or any other person regarding the actions of a permit holder, the stewards may conduct an investigation and, if warranted, a disciplinary hearing regarding the permit holder's actions.

54.3. Summary Suspension. The following provisions apply to summary suspension:

54.3.a. If the stewards determine that a permit holder's actions constitute an immediate danger to the public health, safety or welfare, the stewards may summarily suspend a permit pending a hearing.

54.3.b. A permit holder whose permit has been summarily suspended is entitled to a hearing on the summary suspension not later than ten (10) days after the permit was summarily suspended. The permit holder may waive his or her right to a hearing on the summary suspension within the ten (10) day limit.

54.3.c. The stewards shall conduct a hearing on the summary suspension in the same manner as other disciplinary hearings. At a hearing on the summary suspension, the sole issue is whether the permit holder's permit should remain suspended pending a final disciplinary hearing and a ruling on the merits of the alleged misconduct. However, the hearing on the summary suspension and the hearing on the merits of the alleged misconduct may be consolidated in the discretion of the stewards.

54.3.d. A disciplinary hearing on the merits of the alleged misconduct giving rise to a summary suspension shall be conducted in accordance with this rule.

54.4. Notice. The following provisions apply to notice:

54.4.a. Except as provided by subsection 54.3. regarding summary suspensions, and except in cases involving a riding infraction, the stewards shall provide written notice at least three (3) days before the hearing to the permit holder who is the subject of the disciplinary hearing. A permit holder may waive his or her right to such notice by executing a written waiver.

54.4.b. Notice given under this subsection shall include:

54.4.b.1. a statement of the time, place and nature of the hearing;

54.4.b.2. a statement of the legal authority and jurisdiction under which the hearing is to be held;

54.4.b.3. a reference to the particular sections of the statutes or rules involved;

54.4.b.4. a short, plain description of the alleged conduct that has given rise to the disciplinary hearing; and

54.4.b.5. a statement summarizing the rights of the permit holder as outlined in subsection 54.1 of this section.

54.4.c. If possible, the stewards or their designee shall hand deliver the written notice of disciplinary hearing to the permit holder who is the subject of the hearing. If hand delivery is not possible, the stewards shall mail the notice to the permit holder's last known address, as found in the Racing Commission's permit files, by certified mail, return receipt requested. If the disciplinary hearing involves an alleged medication violation that could result in the disqualification of a horse, the stewards shall provide notice of the hearing to the owner, managing owner or lessee of the horse in the manner provided in this subsection.

54.4.d. Nonappearance of a summoned permit holder after adequate notice shall be deemed as an admission of the charges set forth in the notice of hearing and a waiver of the right to a hearing before the stewards.

54.5. Continuances. The following provisions apply to continuances:

54.5.a. Upon receipt of a notice, a permit holder may request a continuance of the hearing.

54.5.b. The stewards may grant a continuance of any hearing for good cause shown.

54.5.c. The stewards may at any time order a continuance on their own motion.

54.6. Evidence. The following provisions apply to evidence:

54.6.a. All hearings shall be conducted by no less than a majority of the stewards.

54.6.b. Each witness at a disciplinary hearing conducted by the stewards shall be sworn by the stewards.

54.6.c. The stewards shall allow a full presentation of evidence and are not bound by the technical rules of evidence. However, the stewards may disallow evidence that is irrelevant or unduly repetitive of other evidence. The stewards shall have the authority to determine, in their sole discretion, the weight and credibility of any evidence and/or testimony. The stewards may admit hearsay evidence if the stewards determine the evidence is of a type that is commonly relied on by reasonably prudent people. The rules of privilege recognized by West Virginia law apply in hearings before the stewards.

54.6.d. The burden of proof is on the stewards to show, by a preponderance of the evidence, that the permit holder has violated or is responsible for a violation of a statute or a Racing Commission rule. However, the burden is on the permit holder to prove by a preponderance of the evidence any defense that he or she may present.

54.6.e. Except for hearings involving alleged riding infractions, all hearings shall be recorded. A copy of the recording or a transcript of the recording shall be provided to the permit holder or any interested person upon request. The cost of providing a copy of the recording or a transcript of the recording may be assessed against the requesting party in the discretion of the stewards.

54.7. Representation. A permit holder who is the subject of a disciplinary hearing before the stewards may represent himself or herself; may be represented by a lay representative of any racing trade organization to which he or she is a member; or, may be represented by legal counsel licensed to practice law in the State of West Virginia. Attorneys

who are not licensed to practice law in the state of West Virginia must comply with Rule 8.0, Admission Pro Hac Vice, of the West Virginia Rules for Admission to the Practice of Law, before representing any permit holder in disciplinary matters pending before the stewards. Representation of a permit holder includes any communication with the stewards on behalf of the permit holder; the filing or making of motions or any other written or oral requests on behalf of a permit holder; and, appearing before the stewards on behalf of a permit holder.

54.8. Rulings. The following provisions apply to rulings:

54.8.a. The issues at a disciplinary hearing shall be decided by a majority vote of the stewards. If the vote is not unanimous, the dissenting steward shall include with the record of the hearing a written statement of the reason(s) for the dissent.

54.8.b. A ruling by the stewards must be on a form prescribed by the Racing Commission and shall include:

54.8.b.1. the full name, social security number, date of birth, last record address, permit type and permit number of the person who is the subject of the hearing;

54.8.b.2. a statement of the charges against the permit holder, including a reference to the specific section of the statutes or rules that the permit holder is found to have violated;

54.8.b.3. the date of the hearing and the date the ruling was issued;

54.8.b.4. the penalty imposed;

54.8.b.5. any changes in the order of finish or purse distribution;

54.8.b.6. information on the permit holder's right to appeal the ruling to the Racing Commission; and

54.8.b.7. other information required by the Racing Commission.

54.8.c. A ruling shall be signed by all three stewards. However, in the event that the ruling is not unanimous, the ruling shall be signed by a majority of the stewards with the dissenting steward noting the reasons for his or her dissent.

54.8.d. If possible, the stewards or their designee shall hand deliver a copy of the ruling to the permit holder who is the subject of the ruling. If hand delivery is not possible, the stewards shall mail the ruling to the permit holder's last know address, as found in the Racing Commission's permit files, by certified mail, return receipt requested. A copy of the ruling shall be submitted to the NAPRA or RCI Ruling Database, and if the ruling includes the disqualification of a horse, the stewards shall provide a copy of the ruling to the owner of the horse, the horsemen's bookkeeper, and the appropriate past performance service(s).

54.8.e. All fines imposed by the stewards shall be paid to the Racing Commission within seven (7) calendar days after the ruling is issued, unless otherwise ordered by the stewards.

54.9. Effect of Rulings. The following provisions apply to the effect of rulings:

54.9.a. Rulings against a permit holder apply to another person if continued participation in an activity by the other person would circumvent the intent of the ruling by

permitting the person to serve, in essence, as a substitute for the ineligible permit holder.

54.9.b. The transfer of a horse to avoid application of a Racing Commission rule or ruling by the stewards is prohibited.

54.10. Appeals. The following provisions apply to appeals:

54.10.a. A permit holder aggrieved by a ruling of the stewards may appeal to the Commission. A person who fails to file an appeal by the deadline and in the form required by this subsection waives the right to appeal.

54.10.b. An appeal under this section must be filed with the Commission's racing secretary at the Racing Commission's principal office not later than twenty (20) days after the stewards ruling is received by the permit holder.

54.10.c. An appeal shall be in writing on a form prescribed by the Racing Commission. The appeal shall include:

54.10.c.1. the name, address, telephone number and signature of the person making the appeal;

54.10.c.2. a statement of the basis of the appeal; and

54.10.c.3. a sworn, notarized statement that the appealing party has a good faith belief that the appeal is meritorious and is not taken merely to delay the penalty imposed the stewards.

54.10.d. A permit holder who appeals shall pay security for costs in the amount of one hundred dollars ($100.00). This security fee shall be paid to the Racing Commission at the same time the appeal is filed. In the event that the Racing Commission determines that one hundred dollar ($100.00) security fee is insufficient to cover the anticipated costs of holding the appeal hearing, the permit holder may be required to pay an additional security for costs specified by the Racing Commission. Such additional security fee shall be deposited with the Racing Commission within ten (10) days after notification. If a permit holder substantially prevails in an appeal hearing before the Racing Commission, the Commission may order a refund of all or part of any security fee paid by a permit holder. If a permit holder does not substantially prevail in an appeal hearing before the Racing Commission, the Commission may assess the costs of hearing incurred in excess of the one hundred dollar ($100.00) security fee.

54.10.e. On notification by the Racing Commission that an appeal has been filed, the stewards shall forward to the Commission the record of the stewards' proceeding on which the appeal is based.

54.10.f. If a person against whom a fine has been assessed files an appeal of the ruling that assesses the fine, the person shall pay the fine in accordance with this rule, unless the ruling is stayed in accordance with this rule. If the fine is paid before disposition of the appeal and the appeal is resolved in favor of the permit holder, the Commission shall refund the amount of the fine.

54.11. Stays. The following provisions apply to stays:

54.11.a. A person who has been disciplined by a ruling of the stewards may apply for a stay to the Racing Commission or to the member of the Commission designated to rule upon stay requests.

54.11.b. An application for a stay must be filed with the Commission's racing

secretary at the Racing Commission's principal office not later than the deadline for filing an appeal.

54.11.c. An application for a stay must be in writing on a form prescribed by the Racing Commission and shall include:

54.11.c.1. the name, address, telephone number and signature of the person requesting the stay;

54.11.c.2. a statement of the justification for the stay; and

54.11.c.3. a sworn, notarized statement that party requesting the stay has a good faith belief that the stay request is meritorious and is not taken merely to delay the penalty imposed the stewards.

54.11.d. The Racing Commission or the member of the Commission designated to rule upon stay requests may grant a stay for cause. Rulings on stay requests shall be issued in writing to the person requesting the stay. The Racing Commission or the member of the Commission designated to rule upon stay requests may rescind a stay granted under this subsection for reasonable cause.

54.11.e. The fact that a stay is granted is not a presumption that the ruling issued by the stewards is invalid.

§178-1-55. Proceedings by the Commission.

55.1. Rights of Permit Holder, Licensee or Other Person. The following provisions apply to the rights of a permit holder, licensee or other person:

55.1.a. A permit holder who is the subject of a disciplinary hearing who has filed an appeal to the Racing Commission from a stewards' ruling; or a licensee who is the subject of a disciplinary hearing before the Racing Commission; or, any other person under the jurisdiction of the Racing Commission who seeks relief from the Racing Commission, is entitled to:

55.1.a.1. proper notice of all charges;

55.1.a.2. confront the evidence presented, including:

55.1.a.2.A. the right to counsel at the permit holder's/licensee's/person's expense;

55.1.a.2.B. the right to examine all evidence presented against him, her or it;

55.1.a.2.C. the right to present a defense;

55.1.a.2.D. the right to call witnesses;

55.1.a.2.E. the right to cross-examine witnesses; and

55.1.a.2.F. the right to waive any of the above rights.

55.2. Notice. The following provisions apply to notice:

55.2.a. Upon receipt of a written appeal by a permit holder, the Racing Commission shall set a time and place for the appeal hearing not less than ten (10) nor more than thirty (30) days after receipt of the appeal. The permit holder may waive his or her right to a hearing within the above-referenced time frame by executing a written waiver. The Commission may grant an extension of the above-referenced time frame for hearing for good cause shown.

55.2.b. In any disciplinary matter instituted by the Racing Commission against a licensee, the Racing Commission shall provide no less than (10) days notice of the hearing.

55.2.c. The Racing Commission shall serve a notice of hearing by certified mail, return receipt requested, to the person's last known address, as found in the Commission's permit or licensing files, or by personal service.

55.2.d. A notice of hearing shall include:

55.2.d.1. statement of time, place and nature of the hearing;

55.2.d.2. statement of the legal authority and jurisdiction under which the hearing is to be held;

55.2.d.3. reference to the particular sections of the statutes and rules involved;

55.2.d.4. short, plain statement of the matters asserted; and

55.2.d.5. any other statement required by law.

55.2.e. A party to the proceeding may move to postpone the hearing. The motion must be in writing; must set forth the specific grounds on which it is sought; and, must be filed with the Racing Commission before the date set for the hearing. If the Racing Commission or a hearing examiner appointed by the Racing Commission grants the motion for postponement, the Commission shall cause new notice to be issued.

55.2.f. After a hearing has begun, the Racing Commission or a hearing examiner appointed by the Racing Commission may grant a continuance on oral or written motion, without issuing new notice, by announcing the date, time and place for reconvening the hearing before recessing the hearing.

55.2.g. If a party to a proceeding before the Racing Commission fails to appear after adequate notice, the Commission may deem the charges set forth in the notice of hearing as admitted by the non-appearing party and may dismiss the proceedings before the Commission.

~~55.3.~~ **Subpoenas, Subpoenas Duces Tecum and Oaths or Affirmations.** The following provisions apply to subpoenas, subpoenas duces tecum and oaths or affirmations:

55.3.a. Any member of the Racing Commission or a hearing examiner appointed by the Racing Commission may issue subpoenas to compel the testimony of witnesses and subpoenas duces tecum to compel the production of documents, books, records, papers and other items.

55.3.b. Any party requesting the issuance of subpoenas or subpoenas duces tecum shall be responsible for proper service and payment of fees for the attendance and travel of witnesses in accordance with the requirements of West Virginia Code § 29A-5-1(b).

55.3.c. Any member of the Racing Commission or a hearing examiner appointed by the Racing Commission may administer oaths or affirmations to witnesses appearing before the Racing Commission.

55.4. Reporters and Transcripts. The following provisions apply to reporters and transcripts:

55.4.a. The Racing Commission shall engage a court reporter to make a record of the hearing. The Commission may allocate the costs of the reporter and any transcript produced among the parties.

55.4.b. If a person requests a transcript of the record, the Racing Commission may assess the costs of preparing the transcript to the person.

55.5. Nature of Hearings. The following provisions describe the nature of hearings:

55.5.a. A hearing on an appeal by a permit holder from a decision of the stewards shall be de novo. The Racing Commission shall have the burden of proving by a preponderance of the evidence that the permit holder has violated or is responsible for a violation of a statute or a Commission rule. However, upon appeal by a permit holder of a decision of the stewards regarding a disqualification during the running of the race, the appeal hearing before the Racing Commission shall not be de novo and the burden shall be on the permit holder to prove by clear and convincing evidence that the stewards committed plain error in their decision. In the event that a permit holder appeals a stewards' decision regarding a disqualification during the running of the race and does not prevail, he or she shall be assessed interest on any purse which may be held during the pendency of the appeal. Such assessment shall be collected by the Racing Commission and paid to the owner of the horse who moves up in the finish of the race as a result of the stewards' disqualification decision. The rate of interest shall be three (3) percentage points above the Fifth Federal Reserve District secondary discount rate in effect on the second day of January of the year in which the assessment is entered. Provided, that the rate of interest shall not exceed eleven (11) percent per annum or be less than seven (7) percent per annum. In addition, pursuant to the provisions of subdivision 54.10.d. of this rule, the Commission may assess the costs of the hearing incurred in excess of the one hundred dollar ($100.00) security fee against the appealing permit holder.

55.5.b. The Racing Commission may reject, affirm, or modify any penalty or disciplinary action imposed by the stewards.

55.5.c. In any hearing on a disciplinary matter instituted by the Racing Commission against a licensee, the Commission shall have the burden of proving by a preponderance of the evidence that the licensee has violated or is responsible for a violation of a statute or a Commission rule.

55.5.d. All hearings before the Racing Commission are open to the public. However, witnesses may be excluded or sequestered.

55.6. Conducting of Hearings. The following provisions apply to the conducting of hearings:

55.6.a. A quorum of the Racing Commission and/or a hearing examiner appointed by the Racing Commission who is licensed to practice law in the state of West Virginia shall conduct and preside over Commission hearings.

55.6.b. The Racing Commission or its appointed hearing examiner may:

55.6.b.1. issue subpoenas and subpoenas duces tecum;

55.6.b.2. administer oaths or affirmations;

55.6.b.3. receive evidence;

55.6.b.4. rule on the admissibility of evidence;

55.6.b.5. examine witnesses;

55.6.b.6. set reasonable times within which a party may present evidence and within which a witness may testify;

55.6.b.7. permit and limit oral argument;

55.6.b.8. issue orders and findings of fact and conclusions of law;

55.6.b.9. require written arguments to be filed by the parties;

55.6.b.10. take notice of any and all judicially cognizable facts;

55.6.b.11. regulate the course of the hearing; and

55.6.b.12. perform other duties necessary to a fair and proper hearing.

55.7. Evidence. The following provisions apply to evidence:

55.7.a. All testimony of witnesses before the Racing Commission must be given under oath or affirmation. The Racing Commission or its appointed hearing examiner may limit the number of witnesses and may exclude all irrelevant, immaterial or unduly repetitious evidence.

55.7.b. The Racing Commission and/or its appointed hearing examiner shall allow a full presentation of evidence and are not bound by the technical rules of evidence. The Racing Commission and/or its appointed hearing examiner shall have the authority to determine, in their sole discretion, the weight and credibility of any evidence and/or testimony. The Racing Commission and/or its appointed hearing examiner may admit hearsay evidence if it is determined that the evidence is of a type that is commonly relied on by reasonably prudent people. The rules of privilege recognized by West Virginia law apply in hearings before the Racing Commission.

55.8. Representation. A person who is the subject of a hearing before the Racing Commission may represent himself or herself or may be represented by legal counsel licensed to practice law in the state of West Virginia. Attorneys who are not licensed to practice law in the State of West Virginia must comply with Rule 8.0, Admission Pro Hac Vice, of the West Virginia Rules for Admission to the Practice of Law, before representing any party involved in a matter before the Racing Commission. Representation of a party includes any communication with the Racing Commission or its agents on behalf of the permit holder, the filing or making of motions or any other written or oral requests on behalf of a party, and, appearing before the Racing Commission or its appointed hearing examiner on behalf of a party.

55.9. Decisions. The following provisions apply to decisions:

55.9.a. If a hearing is conducted by a hearing examiner appointed by the Racing Commission, he or she shall issue a written recommended decision containing proposed findings of fact and conclusions of law to the Commission. The hearing examiner shall mail a copy of his recommended decision to all parties to the proceeding.

55.9.b. Upon receipt of a recommended decision from an appointed hearing examiner, the Commission shall consider and vote upon the recommendation in a meeting noticed in accordance with the West Virginia Open Governmental Proceedings Act, West Virginia Code §§ 6-9A-1 *et seq.* The Commission may:

55.9.b.1. adopt or modify the recommended decision, in whole or in part;

55.9.b.2. decline to adopt the recommended decision, in whole or in part;

55.9.b.3. remand the proceeding for further examination by the hearing examiner; or

55.9.b.4. direct the hearing examiner to give further consideration to the proceeding with or without reopening the hearing.

55.9.c. If the Racing Commission modifies or declines to adopt a recommended decision of an appointed hearing examiner, either in whole or in part, it shall issue a reasoned, articulate explanation and a recitation of the underlying evidence or other matters upon which it bases its decision and particularized findings of fact and conclusions of law that support its decision.

55.9.d. If a hearing is conducted by a quorum of the Racing Commission it shall issue a written decision containing proposed findings of fact and conclusions of law.

55.10. Orders. The following provisions apply to orders:

55.10.a. The Racing Commission shall issue a final order in all matters heard before it. The Commission's order shall be in writing and shall be signed by the Chairman.

55.10.b. The Racing Commission shall serve a copy of a final order upon all parties to the proceeding by certified mail, return receipt requested, or by personal service.

55.10.c. A final order of the Racing Commission takes effect on the date the order is entered, unless otherwise stated in the order.

55.10.d. The Racing Commission shall submit copies of all final orders to the NAPRA or RCI Ruling Database.

§178-1-56. Rulings In Other Jurisdictions.

56.1. Reciprocity. The Racing Commission and the stewards shall honor rulings, decisions and final orders from other racing jurisdictions regarding permit or license suspensions, revocations, and eligibility.

56.2. Appeals of Reciprocal Rulings. Persons subject to rulings, decisions and final orders in other racing jurisdictions shall have the right to request a hearing before the Racing Commission to show cause why such ruling should not be enforced in West Virginia. Any request for such hearing must clearly set forth in writing the reasons for the appeal.

PART 10. WEST VIRGINIA THOROUGHBRED DEVELOPMENT FUND AND ACCREDITED RACE FUND.

§178-1-57. Eligibility.

57.1. 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.

57.2. 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.

57.3. 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.

§178-1-58. Accredited Race Fund.

58.1. To qualify for the West Virginia accredited race fund, the breeders must qualify under one of the following:

58.1.a. The breeder of the West Virginia bred foal is a West Virginia resident;

58.1.b. The breeder of the West Virginia bred foal is not a West Virginia resident, but keeps his or her breeding stock in West Virginia year-round, or

58.1.c. The breeder of the West Virginia bred foal is not a West Virginia resident and does not qualify under subdivision 58.1.b. above, but either the sire of the West Virginia bred foal is a West Virginia stallion, or the mare is covered only by a West Virginia accredited stallion or stallions before December 31 of the calendar year following the birth of that West Virginia bred foal.

TABLE 178-1 A

OCCUPATIONAL PERMIT FEES
(Effective for calendar year 2012 and thereafter)

Stable Name	$40.00
Corporation	$40.00
Vendor	$40.00
Owner (with registration of colors)	$30.00
Owner-Trainer (same person)	$60.00
Trainer	$30.00
Assistant Trainer	$30.00
Jockey	$30.00
Apprentice Jockey	$20.00
Jockey Agent	$20.00
Practicing Veterinarian	$30.00
Veterinarian's Assistant	$20.00
Blacksmith	$30.00
Authorized Agent (must apply for permit and pay permit fee for each person represented)	$20.00
Mutuel Employee	$20.00
Photographers, totalizator, film patrol	$20.00
Stable Foreman	$20.00
Starter	$30.00
Assistant Starter	$20.00
Association Racing Secretary	$30.00
Association Assistant Racing Secretary	$30.00
Paddock Judge	$20.00

TABLE 178-1 A
continued

OCCUPATIONAL PERMIT FEES
(Effective for calendar year 2012 and thereafter)

Horsemen's Bookkeeper	$20.00
Clerk of Scales	$20.00
Clocker	$20.00
Timer	$20.00
Horse Identifier	$20.00
Jockey Room Custodian	$20.00
Placing Judge	$20.00
Outrider	$20.00
Stable Hand	$20.00
Concession	$20.00
Maintenance	$20.00
Groom	$20.00
Admission	$20.00
Pony Riders	$20.00
Parking	$20.00
Security	$20.00
Exercise Rider	$20.00
Video Lottery employees	$20.00
Others not specified	$20.00

TABLE 178-1 B

JOCKEY MOUNT FEES

Purse	Winning Mount	Second Place Mount	Third Place Mount	Fourth Place Mount	Losing Mount
Up to $5,999.00	10% of Win Purse	$65.00	$60.00	$55.00	$50.00
$6,000.00 to $7,799.00	10% of Win Purse	$75.00	$70.00	$65.00	$60.00
$7,800.00 to $9,999.00	10% of Win Purse	5% of Place Purse ($78.00-$99.00)	$75.00	$70.00	$65.00
$10,000.00 to $17,999.00	10% of Win Purse	5% of Place Purse ($100.00-$149.99)	$85.00	$80.00	$75.00
$18,000.00 to $24,999.00	10% of Win Purse	5% of Place Purse ($150.00-$249.99)	5% of Show Purse ($90.00-$124.99)	$85.00	$80.00
$25,000.00 to $49,999.00	10% of Win Purse	5% of Place Purse ($250.00-$499.99)	5% of Show Purse ($125.00-$249.99)	$95.00	$85.00
$50,000.00 to $74,999.00	10% of Win Purse	5% of Place Purse ($500.00-$749.99)	5% of Show Purse ($250.00-$374.99)	$100.00	$90.00
$75,000.00 and up	10% of Win Purse	5% of Place Purse ($750.00 and up)	5% of Show Purse ($375.00 and up)	5% of Fourth Purse ($187.50 and up)	$105.00

TABLE 178-1 C

REQUEST TO WEAR ADVERTISING AND PROMOTIONAL MATERIAL

DATE OF ENTRY _____

DATE OF RACE _____

RACETRACK: ❑ CHARLES TOWN ❑ MOUNTAINEER

RACE NUMBER _____

NAME OF RACE (STAKES IF APPLICABLE) _____

DESCRIPTION OF MATERIAL TO BE WORN: (Use a separate sheet if necessary)

_____

_____

_____

NAME OF ADVERTISER, PROMOTIONAL BRAND OR SPONSOR:

_____

NAME OF JOCKEY WEARING THE MATERIAL: _____

_____ _____

Signature of the Jockey or Agent Date

_____

Title (if applicable)

APPROVAL OF OWNER OR DULY AUTHORIZED AGENT

_____ _____

Signature Date

_____

Title

TABLE 178-1 C
continued

REQUEST TO WEAR ADVERTISING AND PROMOTIONAL MATERIAL

APPROVAL OF LICENSED RACING ASSOCIATION

_____ _____
Signature **Date**

_____
Title

APPROVAL OF THE STEWARDS

_____ _____
Signature **Date**

_____ _____
Signature **Date**

_____ _____
Signature **Date**

TABLE 178-1 D

Uniform Classification Guidelines of Foreign Substances

Association of Racing Commissioners International (RCI) (revised January 2010)

Association of Racing Commissioners International, Inc.
Drug Testing Standards and Practices Program
Model Rules Guidelines

Uniform Classification Guidelines for Foreign Substances and Recommended Penalties and Model Rule

Revised January 2010

Association of Racing Commissioners International, Inc.
Uniform Classification Guidelines for Foreign Substances

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Preamble to the Uniform Classification Guidelines of Foreign Substances

The Preamble to the Uniform Classification Guidelines was approved by the RCI Drug Testing and Quality Assurance Program Committee (now the Drug Testing Standards and Practices Program Committee) on August 26, 1991. Minor revisions to the Preamble were made by the Drug Classification subcommittee (now the Veterinary Pharmacologists Subcommittee) on September 3, 1991.

"The Uniform Classification Guidelines printed on the following pages are intended to assist stewards, hearing officers and racing commissioners in evaluating the seriousness of alleged violations of medication and prohibited substance rules in racing jurisdictions. Practicing equine veterinarians, state veterinarians, and equine pharmacologists are available and should be consulted to explain the pharmacological effects of the drugs listed in each class prior to any decisions with respect to penalities to be imposed. The ranking of drugs is based on their pharmacology, their ability to influence the outcome of a race, whether or not they have legitimate therapeutic uses in the racing horse, or other evidence that they may be used improperly. These classes of drugs are intended only as guidelines and should be employed only to assist persons adjudicating facts and opinions in understanding the seriousness of the alleged offenses. The facts of each case are always different and there may be mitigating circumstances which should always be considered. These drug classifications will be reviewed frequently and new drugs will be added when appropriate."

Notes Regarding Classification Guidelines

- Where the use of a drug is specifically permitted by a jurisdiction, then the jurisdiction's rule supersedes these penalty guidelines.
- Regulators should be aware that a laboratory report may identify a drug only by the name of its metabolite. The metabolite might not be listed here, but the parent compound may be.
- These classes of drugs are intended only as guidelines and should be employed only to assist persons adjudicating facts and opinions in understanding the seriousness of the alleged offenses.
- The facts of each case are different and there may be mitigating circumstances that should be considered.
- These drug classifications will be reviewed periodically. New drugs will be added or some drugs may be reclassified when appropriate.

Classification Criteria

The RCI Drug Classification Scheme is based on 1) pharmacology, 2) drug use patterns, and 3) the appropriateness of a drug for use in the racing horse. Categorization is decided using the following general guidelines:

- ***Pharmacology***. Drugs that are known to be potent stimulants or depressants are placed in higher classes, while those that have (or would be expected to have) little effect on the outcome of a race are placed in lower classes.

- ***Drug Use Patterns***. Some consideration is given to placement of drugs based on practical experience with their use and the nature of positive tests. For example, procaine positives have in the past been associated primarily with the administration of procaine penicillin, and this has been taken into consideration in the placement of procaine into Class 3 instead of Class 2 with other injectable local anesthetics.

- ***Appropriateness of Drug Use***. Drugs that clearly are intended for use in equine therapeutics are placed in lower classes. Drugs that clearly are not intended for use in the horse are placed in higher classes, particularly if they might affect the outcome of a race. Drugs that are recognized as legitimately useful in equine therapeutics but could affect the outcome of a race are placed in the middle or higher classes.

The list includes most drugs that have been reported as detected by racing authority laboratories in the United States, Canada, the United Kingdom and other Association of Official Racing Chemists (AORC) laboratories, but does not include those which would seem to have no effect on the performance of the horse or drug detectability. For example, it does not include antibiotics, sulfonamides, vitamins, anthelmintics, or pangamic acid, all of which have been reported.

The list contains many drugs that have never been reported as detected. Usually, these are representatives of chemical classes that have the potential for producing an effect, and in many cases, for which at least one drug in that chemical class has been reported.

Most drugs have numerous effects, and each was judged on an individual basis. There are instances where there is a rather fine distinction between drugs in one category and those in the next. This is a reflection of a nearly continuous spectrum of effects from the most innocuous drug on the list to the drug that is the most offensive.

Classification Definitions

- **Class 1:** Stimulant and depressant drugs that have the highest potential to affect performance and that have no generally accepted medical use in the racing horse. Many of these agents are Drug Enforcement Agency (DEA) schedule II substances. These include the following drugs and their metabolites: Opiates, opium derivatives, synthetic opioids and psychoactive drugs, amphetamines and amphetamine-like drugs as well as related drugs, including but not limited to apomorphine, nikethamide, mazindol, pemoline, and pentylenetetrazol. Though not used as therapeutic agents, all DEA Schedule 1 agents are included in Class 1 because they are potent stimulant or depressant substances with psychotropic and often habituative actions.

- **Class 2:** Drugs that have a high potential to affect performance, but less of a potential than drugs in Class 1. These drugs are 1) not generally accepted as therapeutic agents in racing horses, or 2) they are therapeutic agents that have a high potential for abuse. Drugs in this class include: psychotropic drugs, certain nervous system and cardiovascular system stimulants, depressants, and neuromuscular blocking agents. Injectable local anesthetics are included in this class because of their high potential for abuse as nerve blocking agents.

- **Class 3:** Drugs that may or may not have generally accepted medical use in the racing horse, but the pharmacology of which suggests less potential to affect performance than drugs in Class 2. Drugs in this class include bronchodilators, anabolic steroids and other drugs with primary effects on the autonomic nervous system, procaine, antihistamines with sedative properties and the high-ceiling diuretics.

- **Class 4:** This class includes therapeutic medications that would be expected to have less potential to affect performance than those in Class 3. Drugs in this class includes less potent diuretics; corticosteroids; antihistamines and skeletal muscle relaxants without prominent central nervous system (CNS) effects; expectorants and mucolytics; hemostatics; cardiac glycosides and anti-arrhythmics; topical anesthetics; antidiarrheals and mild analgesics. This class also includes the non-steroidal anti-inflammatory drugs (NSAIDs), at concentrations greater than established limits.

- **Class 5:** This class includes those therapeutic medications for which concentration limits have been established by the racing jurisdictions as well as certain miscellaneous agents such as dimethylsulfoxide (DMSO) and other medications as determined by the regulatory bodies. Included specifically are agents that have very localized actions only, such as anti-ulcer drugs, and certain anti-allergic drugs. The anticoagulant drugs are also included.

- **Prohibited Practices:**

A) The possession and/or use of a drug, substance or medication, specified below, on the premises of a facility under the jurisdiction of the regulatory body for which a recognized analytical method has not been developed to detect and confirm the administration of such substance; or the use of which may endanger the health and welfare of the horse or endanger the safety of the rider or driver; or the use of which may adversely affect the integrity of racing:

1) Erythropoietin
2) Darbepoietin
3) Oxyglobin
4) Hemopure

B) The possession and/or use of a drug, substance, or medication on the premises of a facility under the jurisdiction of the regulatory body that has not been approved by the United States Food and Drug Administration (FDA) for use in the United States.

C) The practice, administration, or application of a treatment, procedure, therapy or method identified below, which is performed on the premises of a facility under jurisdiction of a regulatory body and which may endanger the health and welfare of the horse or endanger the safety of the rider or driver, or the use of which may adversely affect the integrity of racing:

Drug Classification Scheme

- **Class 1**: Opiates, opium derivatives, synthetic opioids, psychoactive drugs, amphetamines, and all DEA Schedule I substances (see http://www.usdoj.gov/dea/pubs/scheduling.html), and many DEA Schedule II drugs. Also found in this class are drugs that are potent stimulants of the CNS. Drugs in this class have no generally accepted medical use in the racing horse and their pharmacologic potential for altering the performance of a racing horse is very high.

- **Class 2**: Drugs placed in this category have a high potential for affecting the outcome of a race. Most are not generally accepted as therapeutic agents in the racing horse. Many are products intended to alter consciousness or the psychic state of humans, and have no approved or indicated use in the horse. Some, such as injectable local anesthetics, have legitimate use in equine medicine, but should not be found in a racing horse. The following groups of drugs are placed in this class:

  A. Opiate partial agonists, or agonist-antagonists.
  B. Non-opiate psychotropic drugs. These drugs may have stimulant, depressant, analgesic or neuroleptic effects.
  C. Miscellaneous drugs, which might have a stimulant effect on the CNS.
  D. Drugs with prominent CNS depressant action.
  E. Anti-depressant and antipsychotic drugs, with or without prominent CNS stimulatory or depressant effects.
  F. Muscle blocking drugs - those that have a direct neuromuscular blocking action.
  G. Local anesthetics that have a reasonable potential for use as nerve-blocking agents (except procaine).
  H. Snake venoms and other biologic substances that may be used as nerve-blocking agents.

- **Class 3**: Drugs placed in this class may or may not have an accepted therapeutic use in the horse. Many are drugs that affect the cardiovascular, pulmonary and autonomic nervous systems. They all have the potential of affecting the performance of a racing horse. The following groups of drugs are placed in this class:

  A. Drugs affecting the autonomic nervous system that do not have prominent CNS effects, but which do have prominent cardiovascular or respiratory system effects. Bronchodilators are included in this class.
  B. A local anesthetic that has nerve-blocking potential but also has a high potential for producing urine residue levels from a method of use not related to the anesthetic effect of the drug (procaine).
  C. Miscellaneous drugs with mild sedative action, such as the sleep-inducing antihistamines.
  D. Primary vasodilating/hypotensive agents.
  E. Potent diuretics affecting renal function and body fluid composition.
  F. Anabolic and/or androgenic steroids and other drugs.

- **Class 4**: Drugs in this category comprise primarily therapeutic medications routinely used in racehorses. These may influence performance, but generally have a more limited ability to do so. Groups of drugs assigned to this category include the following:

  A. Non-opiate drugs that have a mild central antipyretic effect.
  B. Drugs affecting the autonomic nervous system that do not have prominent CNS, cardiovascular, or respiratory effects:
     1. Drugs used solely as topical vasoconstrictors or decongestants.
     2. Drugs used as gastrointestinal antispasmodics.
     3. Drugs used to void the urinary bladder.
     4. Drugs with a major effect on CNS vasculature or smooth muscle of visceral organs.
  C. Antihistamines that do not have a significant CNS depressant effect. This does not include the H2 blocking agents, which are in Class 5.
  D. Mineralocorticoid drugs.
  E. Skeletal muscle relaxants.
  F. Anti-inflammatory drugs. These drugs may reduce pain as a consequence of their anti-inflammatory action.
     1. Non-steroidal anti-inflammatory drugs (NSAIDs). (Aspirin-like drugs).
     2. Corticosteroids (glucocorticoids).
     3. Miscellaneous anti-inflammatory agents.
  G. Less potent diuretics.
  H. Cardiac glycosides and antiarrhythmic agents.
     1. Cardiac glycosides.
     2. Antiarrhythmic agents (exclusive of lidocaine, bretylium, and propranolol).
     3. Miscellaneous cardiotonic drugs.
  I. Topical Anesthetics - agents not available in injectable formulations.
  J. Antidiarrheal drugs.
  K. Miscellaneous drugs:
     1. Expectorants with little or no other pharmacologic action.
     2. Stomachics.
     3. Mucolytic agents.

- **Class 5**: Drugs in this category are therapeutic medications for which concentration limits have been established by the racing jurisdictions as well as certain miscellaneous agents. Included specifically are agents that have very localized actions only, such as anti-ulcer drugs, and certain antiallergic drugs. The anticoagulant drugs are also included.

Alphabetical List

Drug	Trade Name(s)	Class Penalty Class	
Acebutolol	Sectral	3	B
Acecarbromal		2	A
Acenocoumarol		5	C
Acepromazine	Atrovet, Notensil, PromAce®	3	B
Acetaminophen (Paracetamol)	Tylenol, Tempra, etc.	4	C
Acetanilid		4	B
Acetazolamide	Diamox, Vetamox	4	B
Acetophenazine	Tindal	2	A
Acetophenetidin (Phenacetin)		4	B
Acetylsalicylic acid (Aspirin)		4	C
Aclomethasone	Aclovate	4	C
Adinazolam		2	A
Adrenochrome monosemicarbazone salicylate		4	B
Albuterol (Salbutamol)	Proventil, Ventolin	3	B
Alclofenac		2	
Alcuronium	Alloferin	2	A
Aldosterone	Aldocortin, Electrocortin	4	B
Alfentanil	Alfenta	1	A
Almotriptan	Axert	3	
Alphaprodine	Nisentil	2	A
Alpidem	Anaxyl	2	A
Alprazolam	Xanax	2	A
Alprenolol		3	A
Althesin	Saffan	2	A
Ambenonium	Mytelase, Myeuran	3	B
Ambroxol	Ambril, etc.	4	B
Amcinonide	Cyclocort	4	C
Amiloride	Moduretic; Midamor	4	
Aminocaproic acid	Amicar, Caprocid	4	C
Amiodarone		4	B
2-Aminoheptane	Tuamine	4	B
Aminophylline	Aminophyllin, etc.	3	B
Aminopyrine		4	B
Amisometradine	Rolictron	4	B
Amisulpride	Solian	2	A
Amitraz	Mitaban	3	A
Amitriptyline	Elavil, Amitril, Endep	2	A
Amlodipine	Ammivin, Norvasc	4	B
Amobarbital	Amytal	2	A
Amoxapine	Asendin	2	A
Amperozide		2	A
Amphetamine		1	A
Amrinone		4	B
Amyl nitrite		3	A
Anileridine	Leritine	1	A
Anilopam	Anisine	2	A
Anisindione		5	C
Anisotropine	Valpin	4	B
Antipyrine		4	B
Apazone (Azapropazone)	Rheumox	4	B
Apomorphine		1	A
Aprindine		4	B
Aprobarbital	Alurate	2	A
Arecoline		3	A
Arformoterol		3	A
Articaine	Septocaine; Ultracaine, etc.	2	A
Atenolol	Tenormin	3	B
Atomoxetine	Strattera	2	A
Atracurium	Tracrium	2	A

Alphabetical List

Drug	Trade Name(s)	Class Penalty Class	
Atropine		3	B
Azacylonol	Frenque	2	A
Azaperone	Stresnil, Suicalm, Fentaz (with Fentanyl)	2	A
Baclofen	Lioresal	4	B
Barbital	Veronal	2	A
Barbiturates		2	A
Beclomethasone	Propaderm	4	C
Bemegride	Megimide, Mikedimide	2	A
Benazeprilat, Benazepril and MC-tab	Lotrel, Lotensin	3	A
Bendroflumethiazide	Naturetin	4	B
Benoxaprofen		2	A
Benoxinate	Dorsacaine	4	C
Benperidol	Anquil	2	A
Bentazepam	Tiadipona	2	A
Benzactizine	Deprol, Bronchodiletten	2	A
Benzocaine		4	B
Benzoctamine		2	A
Benzodiazepines		2	A
Benzphetamine	Didrex	2	A
Benzthiazide		4	B
Benztropine	Cogentin	2	A
Benzylpiperazine (BZP)		1	A
Bepridil	Bepadin	4	B
Betamethasone	Betasone, etc.	4	C
Betaxolol	Kerlone	3	B
Bethanechol	Urecholine, Duvoid	4	C
Bethanidine	Esbatal	3	A
Biperiden	Akineton	3	A
Biriperone		2	A
Bisoprolol	Zebeta, Bisobloc, etc.	3	B
Bitolterol	Effectin	3	A
Bolasterone		3	A
Boldenone	Equipoise	3	B
Boldione		3	A
Bretylium	Bretylol	3	B
Brimonidine	Alphagan	2	A
Bromazepam	Lexotan, Lectopam	2	A
Bromfenac	Duract	3	A
Bromhexine	Oletor, etc.	4	B
Bromisovalum	Diffucord, etc.	2	A
Bromocriptine	Parlodel	2	A
Bromodiphenhydramine		3	B
Bromperidol	Bromidol	2	A
Brompheniramine	Dimetane, Disomer	4	B
Brotizolam	Brotocol	2	A
Budesonide	Pulmacort, Rhinocort	4	C
Bufexamac		3	A
Bumetanide	Bumex	3	B
Bupivacaine	Marcaine	2	A
Buprenorphine	Temgesic	2	A
Bupropion	Wellbutrin	2	A
Buspirone	Buspar	2	A
Butabarbital (Secbutobarbitone)	Butacaps, Butasol, etc.	2	A
Butacaine	Butyn	4	B
Butalbital (Talbutal)	Fiorinal	2	A
Butamben (butyl aminobenzoate)	Butesin	4	C
Butanilicaine	Hostacain	2	
Butaperazine	Repoise	2	A
Butoctamide	Listomin	2	A

Alphabetical List

Drug	Trade Name(s)	Class	Penalty Class
Butorphanol	Stadol, Torbugesic	3	B
Butoxycaine	Stadacain	4	B
N-Butylscopolamine		3	B
Caffeine		2	B
Calusterone	Methosorb	3	B
Camazepam	Paxor	2	A
Camphor		4	C
Candesartan	Atcand	3	B
Captodiame	Covatine	2	A
Captopril	Capolen	3	B
Carazolol	Carbacel, Conducton	3	A
Carbachol	Lentin, Doryl	3	B
Carbamezapine	Tegretol	3	B
Carbidopa + levodopa	Sinemet	2	A
Carbinoxamine	Clistin	3	B
Carbromol	Mifudorm	2	A
Carfentanil		1	A
Carisoprodol	Rela, Soma	2	B
Carphenazine	Proketazine	2	A
Carpipramine	Prazinil	2	A
Carprofen	Rimadyl	4	B
Carteolol	Cartrol	3	B
Carticaine (see articaine)	Septocaine; Ultracaine, etc.	2	A
Carvedilol	Coreg	3	B
Cathinone (khat, kat, qat, quat, chat, catha, Abyssinian tea, African tea)		1	A
Celecoxib	Celebrex	3	B
Cetirizine	Zyrtec	4	B
Chloral betaine	Beta-Chlor	2	A
Chloral hydrate	Nactec, Oridrate, etc.	2	A
Chloraldehyde (chloral)		2	A
Chloralose (Alpha-Chloralose)		2	A
Chlordiazepoxide	Librium	2	A
Chlorhexidol		2	A
Chlormerodrin	Neohydrin	4	B
Chlormezanone	Trancopal	2	A
Chloroform		2	A
Chlorophenesin	Maolate	4	BC
Chloroprocaine	Nesacaine	2	A
Chloroquine	Avioclor	4	C
Chlorothiazide	Diuril	4	B
Chlorpheniramine	Chlortriemton, etc.	4	B
Chlorproethazine	Newiplege	2	A
Chlorpromazine	Thorazine, Largactil	2	A
Chlorprothixene	Taractan	2	A
Chlorthalidone	Hydroton	4	B
Chlorzoxazone	Paraflex	4	B
Ciclesonide		4	B
Cilostazol	Pletal	5	C
Cimeterol		3	A
Cimetidine	Tagamet	5	D
Cinchocaine	Nupercaine	4	C
Citalopram	Celex	2	A
Clanobutin		4	B
Clemastine	Tavist	3	B
Clenbuterol	Ventipulmin	3	B
Clibucaine	Batrax	4	C
Clidinium	Quarezan, Clindex, etc.	3	B
Clobazam	Urbanyl	2	A
Clobetasol	Temovate	4	C
Clocapramine		2	A

Alphabetical List

Drug	Trade Name(s)	Class	Penalty Class
Clocortolone	Cloderm	4	C
Clofenamide		4	B
Clomethiazole (Chlormethiazole)		2	A
Clomipramine	Anafranil	2	A
Clonazepam	Klonopin	2	A
Clonidine	Catapres	3	B
Clorazepate	Tranxene	2	A
Clormecaine	Placacid	4	C
Clostebol		3	B
Clothiapine	Entermin	2	A
Clotiazepam	Trecalmo, Rize	2	A
Cloxazolam	Enadel, Sepazon, Tolestan	2	A
Clozapine	Clozaril, Leponex	2	A
a-Cobratoxin		1	A
Cocaine		1	B
Codeine		1	A
Colchicine		4	B
Conorphone		2	A
Corticaine	Ultracain	2	A
Cortisone	Cortone, etc.	4	C
Cromolyn	Intel	5	C
Crotetamide		2	A
Cyamemazine	Tercian	2	A
Cyclandelate	Cyclospasmol	3	A
Cyclizine	Merazine	4	B
Cyclobarbital	Phanodorm	2	A
Cyclobenzaprine	Flexeril	4	B
Cyclomethylcaine	Surfacaine	4	C
Cyclothiazide	Anhydron, Renazide	4	B
Cycrimine	Pagitane	3	B
Cyproheptadine	Periactin	4	C
Danazol	Danocrine	3	B
Dantrolene	Dantrium	4	C
Darbepoetin	Aranesp	2	A
Decamethonium	Syncurine	2	A
Dehydrochloromethyltestosterone		3	B
Dembroxol (Dembrexine)	Sputolysin	4	C
Demoxepam		2	A
Deoxycorticosterone	Percortin, DOCA, Descotone, Dorcostrin	4	C
DeraΔcoxib	Deremaxx	3	B
Desipramine	Norpromine, Pertofrane	2	A
Desonite	Des Owen	4	C
Desoximetasone	Topicort	4	C
Desoxymethyltestosterone		3	B
Detomidine	Dormosedan	3	B
Dexamethasone	Azium, etc.	4	C
Dextromethorphan		4	B
Dextromoramide	Palfium, Narcolo	1	A
Dextropropoxyphene	Darvon	3	B
Dezocine	Dalgan	2	A
Diamorphine		1	A
Diazepam	Valium	2	B
Diazoxide	Proglycem	3	B
Dibucaine	Nupercainal, Cinchocaine	4	C
Dichloralphenazone	Febenol, Isocom	2	A
Dichlorphenamide	Daramide	4	C
Diclofenac	Voltaren, Voltarol	4	C
Dicumarol	Dicumarol	5	C
Diethylpropion	Tepanil, etc.	2	A
Diethylthiambutene	Themalon	2	A

Alphabetical List

Drug	Trade Name(s)	Class	Penalty Class
Diflorasone	Florone, Maxiflor	4	C
Diflucortolone	Flu-Cortinest, etc.	4	C
Diflunisal		3	B
Digitoxin	Crystodigin	4	B
Digoxin	Lanoxin	4	B
Dihydrocodeine	Parcodin	2	A
Dihydroergotamine		4	B
Dilorazepam	Briantum	2	A
Diltiazem	Cardizem	4	B
Dimefline		3	A
Dimethisoquin	Quotane	4	B
Dimethylsulfoxide (DMSO)	Domoso	5	C
Dimethylsulphone (MSM)		5	C
Diphenadione		5	C
Diphenhydramine	Benadryl	3	B
Diphenoxylate	Difenoxin, Lomotil	4	B
Diprenorphine	M50/50	2	A
Dipyridamole	Persantine	3	B
Dipyrone	Novin, Methampyrone	4	C
Disopyramide	Norpace	4	B
Divalproex	Depakote	3	A
Dixyrazine	Esucos	2	A
Dobutamine	Dobutrex	3	B
Dopamine	Intropin	2	A
Donepezil	Aricept	1	A
Doxacurium	Nuromax	2	A
Doxapram	Dopram	2	A
Doxazosin		3	A
Doxefazepam	Doxans	2	A
Doxepin	Adapin, Sinequan	2	A
Doxylamine	Decapryn	3	B
Dromostanolone	Drolban	3	B
Droperidol	Inapsine, Droleptan, Innovar-Vet (with Fentanyl)	2	A
Duloxetine		2	A
Dyclonine	Dyclone	4	C
Dyphylline		3	B
Edrophonium	Tensilon	3	B
Eletripan	Relpax	3	A
Eltenac		4	C
Enalapril (metabolite enaloprilat)	Vasotec	3	B
Enciprazine		2	A
Endorphins		1	A
Enkephalins		1	A
Ephedrine		2	A
Epibatidine		2	A
Epinephrine		2	A
Ergoloid mesylates (dihydroergocomine mesylate, dihydroergocristine mesylate, and dihydroergocryptine mesylate)		2	A
Ergonovine	Ergotrate	4	C
Ergotamine	Gynergen, Cafergot, etc.	4	B
Erthrityl tetranitrate	Cardilate	3	A
Erythropoietin(EPO)	Epogen, Procrit, etc.	2	A
Esmolol	Brevibloc	3	B
Esomeprazole	Nexium	5	D
Estazolam	Domnamid, Eurodin, Nuctalon	2	A
Etamiphylline		3	B
Etanercept	Enbrel	4	B
Ethacrynic acid	Edecrin	3	B
Ethamivan		2	A

Alphabetical List

Drug	Trade Name(s)	Class	Penalty Class
Ethanol		2	A
Ethchlorvynol	Placidyl	2	A
Ethinamate	Valmid	2	A
Ethoheptazine	Zactane	4	B
Ethopropazine	Parsidol	2	A
Ethosuximide	Zarontin	3	A
Ethotoin	Peganone	4	B
Ethoxzolamide	Cardrase, Ethamide	4	C
Ethylaminobenzoate (Benzocaine)	Semets, etc.	4	C
Ethylestrenol	Maxibolin, Organon	3	B
Ethylisobutrazine	Diquel	2	A
Ethylmorphine	Dionin	1	A
Ethylnorepinephrine	Bronkephrine	3	A
Etidocaine	Duranest	2	A
Etifoxin	Stresam	2	A
Etizolam	Depas, Pasaden	2	A
Etodolac	Lodine	3	B
Etodroxizine	Indunox	2	A
Etomidate		2	A
Etorphine HCl	M99	1	A
Famotidine	Gaster, etc.	5	D
Felbamate	Felbatol	3	A
Felodipine	Plendil	4	B
Fenarbamate	Tymium	2	A
Fenbufen	Cincopal	3	B
Fenclozic acid	Myalex	2	A
Fenfluramine	Pondimin	2	A
Fenoldopam	Corlopam	3	B
Fenoprofen	Nalfon	3	B
Fenoterol	Berotec	3	B
Fenspiride	Respiride, Respan, etc	3	B
Fentanyl	Sublimaze	1	A
Fentiazac		3	B
Fexofenadine	Allegra	4	C
Firocoxib		4	B
Flecainide	Idalon	4	B
Floctafenine	Idalon, Idarac	4	B
Fluanisone	Sedalande	2	A
Flucinolone	Synalar, etc.	4	C
Fludiazepam	Erispam	2	A
Fludrocortisone	Alforone, etc.	4	C
Flufenamic acid		3	B
Flumethasone	Flucort, etc.	4	C
Flumethiazide	Ademol	4	B
Flunarizine	Sibelium	4	B
Flunisolide	Bronilide, etc.	4	C
Flunitrazepam	Rohypnol, Narcozep, Darkene, Hypnodorm	2	A
Flunixin	Banamine	4	C*
Fluocinolone	Synalar	4	C
Fluocinonide	Licon, Lidex	4	C
Fluopromazine	Psyquil, Siquil	2	A
Fluoresone	Caducid	2	A
Fluorometholone	FML	4	B
Fluoroprednisolone	Predef-2X	4	C
Fluoxetine	Prozac	2	A
Fluoxymesterone	Halotestin	3	B
Flupenthixol	Depixol, Fluanxol	2	A
Fluphenazine	Prolixin, Permitil, Anatensol, etc.	2	A
Flupirtine	Katadolone	3	A
Fluprednisolone	Alphadrol	4	C
Flurandrenolide	Cordran	4	C

Alphabetical List

Drug	Trade Name(s)	Class	Penalty Class
Flurazepam	Dalmane	2	A
Flurbiprofen	Froben	3	B
Fluspirilene	Imap, Redeptin	2	A
Fluticasone	Flixonase, Flutide	4	C
Flutoprazepam	Restas	2	A
Fluvoxamine	Dumirox, Faverin, etc.	2	A
Formebolone		3	B
Formoterol	Altram	3	B
Fosinopril, metabolite, Fosinoprilat	Monopril	3	A
Fosphenytoin	Cerebyx	3	B
Furazabol		3	B
Furosemide	Lasix	N/A	
Gabapentin	Neurontin	4	B
Galantamine	Reminyl	2	A
Gallamine	Flaxedil	2	A
Gepirone		2	A
Gestrinone		3	A
Glutethimide	Doriden	2	A
Glycopyrrolate	Robinul	3	B
Guaifenesin (glycerol guiacolate)	Gecolate	4	C
Guanadrel	Hylorel	3	A
Guanethidine	Ismelin	3	A
Guanabenz	Wytensin	3	B
Halazepam	Paxipam	2	A
Halcinonide	Halog	4	C
Halobetasol	Ultravate	4	C
Haloperidol	Haldol	2	A
Haloxazolam	Somelin	2	A
Hemoglobin glutamers	Oxyglobin Hemopure	2	A
Heptaminol	Corofundol	3	B
Heroin		1	A
Hexafluorenium	Myalexen	2	A
Hexobarbital	Evipal	2	A
Hexocyclium	Tral	4	C
Hexylcaine	Cyclaine	4	C
Homatropine	Homapin	3	B
Homophenazine	Pelvichthol	2	A
Hydralazine	Apresoline	3	B
Hydrochlorthiazide	Hydrodiuril	4	B
Hydrocodone (dihydrocodienone)	Hycodan	1	A
Hydrocortisone (Cortisol)	Cortef, etc.	4	C
Hydroflumethiazide	Saluron	4	B
Hydromorphone	Dilaudid	1	A
Hydroxyamphetamine	Paradrine	1	A
4-Hydroxytestosterone		3	B
Hydroxyzine	Atarax	2	B
Ibomal	Noctal	2	A
Ibuprofen	Motrin, Advil, Nurpin, etc.	4	C
Ibutilide	Corvert	3	B
Iloprost	Ventavis	3	A
Imipramine	Imavate, Presamine, Tofranil	2	A
Indomethacin	Indocin	3	B
Infliximab	Remicade	4	B
Ipratropium		3	B
Irbesarten	Avapro	3	A
Isapirone		2	A
Isocarboxazid	Marplan	2	A
Isoetharine	Bronkosol	3	B
Isoflupredone	Predef	4	C

Alphabetical List

Drug	Trade Name(s)	Class	Penalty Class
Isomethadone		2	A
Isometheptene	Octin, Octon	4	B
Isopropamide	Darbid	4	B
Isoproterenol	Isoprel	2	A
Isosorbide dinitrate	Isordil	3	B
Isoxicam	Maxicam	2	A
Isoxsuprine	Vasodilan	4	C
Isradipine	DynaCirc	4	B
Kebuzone		3	B
Ketamine	Ketalar, Ketaset, Vetalar	2	B
Ketazolam	Anxon, Laftram, Solatran, Loftran	2	A
Ketoprofen	Orudis	4	C*
Ketorolac	Toradol	3	A
Labetalol	Normodyne	3	B
Lamotrigine	Lamictal	3	A
Lansoprazole		5	D
Lenperone	Elanone-V	2	A
Letosteine	Viscotiol, Visiotal	4	C
Levamisole		2	B
Levobunolol	Betagan	3	B
Levomethorphan		2	A
Levorphanol	Levo-Dromoran	1	A
Lidocaine	Xylocaine	2	B
Lisinopril	Prinivil, Zestril	3	A
Lithium	Lithizine, Duralith, etc.	2	A
Lobeline		2	A
Lofentanil		1	A
Loflazepate, Ethyl	Victan	2	A
Loperamide	Imodium	2	A
Loprazolam	Dormonort, Havlane	2	A
Loratidine	Claritin	4	B
Lorazepam	Ativan	2	A
Lormetazepam	Noctamid	2	A
Losartan	Hyzaar	3	B
Loxapine	Laxitane	2	A
Mabuterol		3	A
Maprotiline	Ludiomil	2	A
Mazindol	Sanorex	1	A
Mebutamate	Axiten, Dormate, Capla	2	A
Mecamylamine	Inversine	3	B
Meclizine	Antivert, Bonine	4	B
Meclofenamic acid	Arquel	4	C
Meclofenoxate	Lucidiril, etc.	2	A
Medazepam	Nobrium, etc.	2	A
Medetomidine	Domitor	3	B
Medrysone	Medriusar, etc.	4	C
Mefenamic acid	Ponstel	3	B
Meloxicam	Mobic	4	B
Melperone	Eunerpan	2	A
Memantine	Namenda	2	A
Meparfynol	Oblivon	2	A
Mepazine	Pacatal	2	A
Mepenzolate	Cantil	3	A
Meperidine	Demerol	1	A
Mephenesin	Tolserol	4	B
Mephenoxalone	Control, etc.	2	A
Mephentermine	Wyamine	1	A
Mephenytoin	Mesantoin	2	A
Mephobarbital (Methylphenobarbital)	Mebaral	2	A
Mepivacaine	Carbocaine	2	B

Alphabetical List

Drug	Trade Name(s)	Class	Penalty Class
Meprobamate	Equanil, Miltown	2	A
Meralluride	Mercuhydrin	4	B
Merbaphen	Novasural	4	B
Mercaptomerin	Thiomerin	4	B
Mercumallilin	Cumertilin	4	B
Mersalyl	Salyrgan	4	B
Mesalamine	Asacol	5	C
Mesoridazine	Serentil	2	A
Mestanolone		3	B
Mesterolone		3	B
Metaclazepam	Talis	2	A
Metaproterenol	Alupent, Metaprel	3	B
Metaraminol	Aramine	1	A
Metaxalone	Skelaxin	4	B
Metazocine		2	A
Metenolone		3	B
Methachloline		3	A
Methadone	Dolophine	1	A
Methamphetamine	Desoxyn	1	A
Methandienone		3	B
Methandriol	Probolic	3	B
Methandrostenolone	Dianabol	3	A
Methantheline	Banthine	3	B
Methapyrilene	Histadyl, etc.	4	B
Methaqualone	Quaalude	1	A
Metharbital	Gemonil	2	A
Methasterone		3	A
Methazolamide	Naptazane	4	C
Methcathinone		1	A
Methdilazine	Tacaryl	4	B
Methixene	Trest	3	A
Methocarbamol	Robaxin	4	B
Methohexital	Brevital	2	A
Methotrexate	Folex, Nexate, etc.	4	B
Methotrimeprazine	Levoprome, Neurocil, etc.	2	A
Methoxamine	Vasoxyl	3	A
Methoxyphenamine	Orthoxide	3	A
Methscopolamine	Pamine	4	B
Methsuximide	Celontin	3	A
Methylatropine		3	B
Methylchlorthiazide	Enduron	4	B
Methyldienolone		3	B
Methyldopa	Aldomet	3	A
Methylergonovine	Methergine	4	C
Methylnortestosterone		3	B
Methylphenidate	Ritalin	1	A
Methylprednisolone	Medrol	4	C
Methyltestosterone	Metandren	3	A
Methyl-1-testosterone		3	A
Methyprylon	Noludar	2	A
Methysergide	Sansert	4	B
Metiamide		4	B
Metoclopramide	Reglan	4	C
Metocurine	Metubine	2	A
Metolazone		3	B
Metomidate	Hypnodil	2	A
Metopon (methyldihydromorphinone)		1	A
Metoprolol	Lopressor	3	B
Mexazolam	Melex	2	A
Mexiletine	Mexitil	4	B
Mibefradil	Posicor	3	B

Alphabetical List

Drug	Trade Name(s)	Class	Penalty Class
Mibolerone		3	B
Midazolam	Versed	2	A
Midodrine	Pro-Amiline	3	B
Milrinone		4	B
Minoxidil	Loniten	3	B
Mirtazepine	Remeron	2	A
Misoprostel	Cytotec	5	C
Mivacurium	Mivacron	2	A
Modafinil	Provigil	2	A
Moexipril (metabolite, moexiprilat)	Uniretic	3	B
Molindone	Moban	2	A
Mometasone	Elocon	4	C
Montelukast	Singulair	4	C
Moperone	Luvatren	2	A
Morphine		1	B
Mosaprimine		2	A
Muscarine		3	A
Nabumetone	Anthraxan, Relafen, Reliflex	3	A
Nadol	Corgard	3	B
Naepaine	Amylsine	4	C
Nalbuphine	Nubain	2	A
Nalorphine	Nalline, Lethidrone	2	A
Naloxone	Narcan	3	A
Naltrexone	Revia	3	
Nandrolone	Nandrolin, Laurabolin, Durabolin	3	B
Naphazoline	Privine	4	B
Naproxen	Equiproxen, Naprosyn	4	C
Naratriptan	Amerge	3	B
Nebivolol		3	A
Nedocromil	Tilade	5	C
Nefazodone	Serzone	2	A
Nefopam		3	A
Neostigmine	Prostigmine	3	B
Nicardipine	Cardine	4	B
Nifedipine	Procardia	4	B
Niflumic acid	Nifluril	3	B
Nikethamide	Coramine	1	A
Nimesulide		3	B
Nimetazepam	Erimin	2	A
Nimodipine	Nemotop	4	B
Nitrazepam	Mogadon	2	A
Nitroglycerin		3	B
Nizatidine	Axid	5	C
19-Norandrostenediol		3	B
19-Norandrostenedione		3	B
Norbolethone		3	B
Norclosterbol		3	B
Nordiazepam	Calmday, Nordaz, etc.	2	A
Norepinephrine		2	A
Norethandrolone		3	A
Nortestosterone		4	C
Nortriptyline	Aventyl, Pamelor	2	A
Nylidrine	Arlidin	3	A
Olanzepine	Zyprexa	2	A
Olmesartan	Benicar	3	A
Olsalazine	Dipentum	4	B
Omeprazole	Prilosec, Losec	5	D
Orphenadrine	Norflex	4	B
Oxabolone		3	B
Oxandrolone	Anavar	3	B
Oxaprozin	Daypro, Deflam	4	C
Oxazepam	Serax	2	A

Alphabetical List

Drug	Trade Name(s)	Class	Penalty Class
Oxazolam	Serenal	2	A
Oxcarbazepine	Trileptal	3	A
Oxilofrine (hydroxyephedrine)		2	A
Oxprenolol	Trasicor	3	B
Oxycodone	Percodan	1	A
Oxymesterone		3	B
Oxymetazoline	Afrin	4	B
Oxymetholone	Adroyd, Anadrol	3	B
Oxymorphone	Numorphan	1	A
Oxyperitine	Forit, Integrin	2	A
Oxyphenbutazone	Tandearil	4	C
Oxyphencyclimine	Daricon	4	B
Oxyphenonium	Antrenyl	4	B
Paliperidone		2	A
Pancuronium	Pavulon	2	A
Pantoprazole	Protonix	5	D
Papaverine	Pavagen, etc.	3	A
Paraldehyde	Paral	2	A
Paramethadione	Paradione	3	A
Paramethasone	Haldrone	4	C
Pargyline	Eutonyl	3	A
Paroxetine	Paxil, Seroxat	2	A
Pemoline	Cylert	1	A
Penbutolol	Levatol	3	B
Penfluridol	Cyperon	2	A
Pentaerythritol tetranitrate	Duotrate	3	A
Pentazocine	Talwin	3	B
Pentobarbital	Nembutal	2	A
Pentoxyfylline	Trental, Vazofirin	4	C
Pentylenetetrazol	Metrazol, Nloric	1	A
Perazine	Taxilan	2	A
Perfluorodecolin		2	A
Perfluorodecahydronophthalene		2	A
Perfluorooctylbromide		2	A
Perfluorotripropylamine		2	A
Perfluorocarbons		2	A
Periciazine	Alodept, etc.	2	A
Perindopril	Biprel	3	A
Perlapine	Hypnodin	2	A
Perphenazine	Trilafon	2	A
Phenacemide	Phenurone	4	B
Phenaglycodol	Acalo, Alcamid, etc.	2	A
Phenazocine	Narphen	1	A
Phencyclidine (PCP)	Sernylan	1	A
Phendimetrazine	Bontril, etc.	1	A
Phenelzine	Nardelzine, Nardil	2	A
Phenindione	Hedulin	5	C
Phenmetrazine	Preludin	1	A
Phenobarbital	Luminal	2	A
Phenoxybenzamine	Dibenzyline	3	B
Phenprocoumon	Liquamar	5	C
Phensuximide	Milontin	4	B
Phentermine	Iomamin	2	A
Phentolamine	Regitine	3	B
Phenylbutazone	Butazolidin	4	C*
Phenylephrine	Isophrin, Neo-Synephrine	3	B
Phenylpropanolamine	Propadrine	3	B
Phenytoin	Dilantin	4	B
Physostigmine	Eserine	3	B
Picrotoxin		1	A
Piminodine	Alvodine, Cimadon	2	A
Pimozide	Orap	2	A
Pinazepam	Domar	2	A
Pindolol	Viskin	3	A

Alphabetical List

Drug	Trade Name(s)	Class Penalty Class	
Pipamperone	Dipiperon	2	A
Pipecuronium	Arduan	2	A
Pipequaline		2	A
Piperacetazine	Psymod, Quide	2	A
Piperocaine	Metycaine	2	A
Pipotiazine	Lonseren, Piportil	2	A
Pipradrol	Dataril, Gerondyl, etc.	2	A
Piquindone		2	A
Pirbuterol	Maxair	3	A
Pirenzapine	Gastrozepin	5	C
Piretanide	Arelix, Tauliz	3	B
Piritramide		1	A
Piroxicam	Feldene	3	B
Polyethylene glycol		5	C
Polythiazide	Renese	4	B
Pramoxine	Tronothaine	4	C
Prazepam	Verstran, Centrax	2	A
Prazosin	Minipress	3	B
Prednisolone	Delta-Cortef, etc.	4	C
Prednisone	Meticorten, etc.	4	C
Prilocaine	Citanest	2	C
Primidone	Mysoline	3	B
Probenecid		4	C
Procainamide	Pronestyl	4	B
Procaine		3	B
Procaterol	Pro Air	3	A
Prochlorperazine	Darbazine, Compazine	2	A
Procyclidine	Kemadrin	3	B
Promazine	Sparine	3	B
Promethazine	Phenergan	3	B
Propafenone	Rythmol	4	B
Propanidid		2	A
Propantheline	Pro-Banthine	3	A
Proparacaine	Ophthaine	4	C
Propentophylline	Karsivan	3	B
Propiomazine	Largon	2	A
Propionylpromazine	Tranvet	2	A
Propiram		2	A
Propofol	Diprivan, Disoprivan	2	A
Propoxycaine	Ravocaine	2	A
Propranolol	Inderal	3	B
Propylhexedrine	Benzedrex	4	B
Prostanazol		3	B
Prothipendyl	Dominal	2	A
Protokylol	Ventaire	3	A
Protriptyline	Concordin, Triptil	2	A
Proxibarbital	Axeen, Centralgol	2	A
Pseudoephedrine	Cenafed, Novafed	3	B
Pyridostigmine	Mestinon, Regonol	3	B
Pyrilamine	Neoantergan, Equihist	3	B
Pyrithyldione	Hybersulfan, Sonodor	2	A
Quazipam	Doral	2	A
Quetiapine	Seroquel	2	A
Quinbolone		3	B
Quinapril, metabolite Quinaprilat	Accupril	3	A
Quinidine	Quinidex, Quinicardine	4	B
Rabeprazole	Aciphex	5	D
Racemethorphan		2	A
Racemorphan		2	A
Raclopride		2	A
Ractopamine	Raylean	3	A
Ramipril, metabolite Ramiprilat	Altace	3	A
Ranitidine	Zantac	5	D
Remifentanil	Ultiva	1	A

Alphabetical List

Drug	Trade Name(s)	Class	Penalty Class
Remoxipride	Roxiam	2	A
Reserpine	Serpasil	2	A
Rilmazafone		2	A
Risperidone		2	A
Ritanserin		2	A
Ritodrine	Yutopar	3	B
Rivastigmine	Exelon	3	B
Rizatriptan	Maxalt	3	B
Rocuronium	Zemuron	2	A
Rofecoxib	Vioxx	2	A
Romifidine	Sedivet	2	B
Ropivacaine	Naropin	2	A
Salicylamide		4	C
Salicylate		4	C
Salmeterol		3	B
Scopolamine (Hyoscine)	Triptone	3	B
Secobarbital (Quinalbarbitone)	Seconal	2	A
Selegiline	Eldepryl, Jumex, etc.	2	A
Sertraline	Lustral, Zoloft	2	A
Sibutramine	Meridia	3	B
Sildenafil	Viagra	3	A
Snake Venoms		2	A
Somatropin	Nutropin	2	A
Somatrem	Protropin	2	A
Sotalol	Betapace, Sotacor	3	B
Spiclomazine		2	A
Spiperone		2	A
Spirapril, metabolite Spiraprilat	Renomax	3	A
Spironalactone	Aldactone	4	B
Stanozolol	Winstrol-V	3	B
Stenbolone		3	B
Strychnine		1	B
Succinylcholine	Sucostrin, Quelin, etc.	2	A
Sufentanil	Sufenta	1	A
Sulfasalazine	Azulfidine, Azaline	4	C
Sulfondiethylmethane		2	A
Sulfonmethane		2	A
Sulforidazine	Inofal	2	A
Sulindac	Clinoril	3	A
Sulpiride	Alglonyl, Sulpitil	2	A
Sultopride	Barnetil	2	A
Sumatriptan	Imitrex	3	B
Tadalasil	Cialis	3	A
Talbutal	Lotusate	2	A
Tandospirone		2	A
Telmisartin	Micardis	3	B
Temazepam	Restoril	2	A
Tenoxicam	Alganex, etc.	3	B
Tepoxalin		3	B
Terazosin	Hytrin	3	A
Terbutaline	Brethine, Bricanyl	3	B
Terfenadine	Seldane, Triludan	4	B
Testolactone	Teslac	3	B
Testosterone		3	B
Tetrabenazine	Nitoman	2	A
Tetracaine	Pontocaine	2	A
Tetrahydrogestrinone		3	A
Tetrahydrozoline	Tyzine	4	B
Tetrazepam	Musaril, Myolastin	2	A
Thebaine		2	A
Theobromine		4	B
Theophylline	Aqualphyllin, etc.	3	B
Thialbarbital	Kemithal	2	A
Thiamylal	Surital	2	A

Alphabetical List

Drug	Trade Name(s)	Class Penalty	Class
Thiethylperazine	Torecan	2	A
Thiopental	Pentothal	2	A
Thiopropazate	Dartal	2	A
Thioproperazine	Majeptil	2	A
Thioridazine	Mellaril	2	A
Thiosalicylate		4	C
Thiothixene	Navane	2	A
Thiphenamil	Trocinate	4	B
Tiapride	Italprid, Luxoben, etc.	2	A
Tiaprofenic acid	Surgam	3	B
Tiletamine	Component of Telazol	2	A
Timiperone	Tolopelon	2	A
Timolol	Blocardrin	3	B
Tocainide	Tonocard	4	B
Tofisopam	Grandaxain, Seriel	2	A
Tolazoline	Priscoline	3	B
Tolmetin	Tolectin	3	B
Topirimate	Topamax	2	A
Torsemide (Torasemide)	Demadex	3	A
Tramadol	Ultram	2	A
Trandolapril (and metabolite, trandolaprilat)	Tarka	3	B
Tranexamic acid		4	C
Tranylcypromine	Parnate	2	A
Trazodone	Desyrel	2	A
Trenbolone	Finoplix	3	B
Tretoquinol	Inolin	2	A
Triamcinolone	Vetalog, etc.	4	C
Triamterene	Dyrenium	4	B
Triazolam	Halcion	2	A
Tribromethanol		2	A
Tricaine methanesulfonate	Finquel	2	A
Trichlormethiazide	Naqua, Naquasone	4	C
Trichloroethanol		2	A
Tricholoethylene	Trilene, Trimar	2	A
Triclofos	Triclos	2	A
Tridihexethyl	Pathilon	4	B
Trifluomeprazine	Nortran	2	A
Trifluoperazine	Stelazine	2	A
Trifluperidol	Triperidol	2	A
Triflupromazine	Vetame, Vesprin	2	A
Trihexylphenidyl	Artane	3	A
Trimeprazine	Temaril	4	B
Trimethadione	Tridione	3	B
Trimethaphan	Arfonad	3	A
Trimipramine	Surmontil	2	A
Tripelennamine	PBZ	3	B
Triprolidine	Actidil	4	B
Tubocurarine (Curare)	Metubin	2	A
Tybamate	Benvil, Nospan, etc.	2	A
Urethane		2	A
Valdecoxib		2	A
Valerenic acid		3	A
Valnoctamide	Nirvanyl	2	A
Valsartan	Diovan	3	B
Vardenafil	Levitra	3	A
Vedaprofen		4	B
Venlafaxine	Effexor	2	A
Veralipride	Accional, Veralipril	2	A
Verapamil	Calan, Isoptin	4	B
Vercuronium	Norcuron	2	A
Viloxazine	Catatrol, Vivalan, etc.	2	A
Vinbarbital	Delvinol	2	A
Vinylbital	Optanox, Speda	2	A
Warfarin	Coumadin, Coufarin	5	C

Alphabetical List

Drug	Trade Name(s)	Class	Penalty Class
Xylazine	Rompun, Bay Va 1470	3	B
Xylometazoline	Otrivin	4	B
Yohimbine		2	A
Zafirlukast	Accolate	4	C
Zaleplon	Sonata	2	A
Zeranol	Ralgro	4	C
Ziconotide		1	A
Zileuton	Zyflo	4	C
Ziprasidone	Geoden	2	A
Zolazepam		2	A
Zolmitriptan	Zomig	3	B
Zolpidem	Ambien, Stilnox	2	A
Zomepirac	Zomax	2	A
Zonisamide	Zonegran	3	B
Zopiclone	Imovan	2	A
Zotepine	Lodopin	2	A
Zuclopenthixol	Clatyl, Cesordinol	2	A
Δ-1-androstene-3, 17-diol		3	A
Δ-1-androstene-3, 17-dione		3	A
Δ-1-dihydrotestosterone		3	A

Listing By Classification

Class 1: Stimulant and depressant drugs that have the highest potential to affect performance and that have no generally accepted medical use in the racing horse. Many of these agents are Drug Enforcement Agency (DEA) Schedule II substances. These include the following drugs and their metabolites: Opiates, opium derivatives, synthetic opioids, psychoactive drugs, all DEA Schedule 1* substances (see http://www.usdoj.gov/dea/pubs/scheduling.html), amphetamines and amphetamine-like drugs as well as related drugs, including but not limited to apomorphine, nikethamide, mazindol, pemoline, and pentylenetetrazol.

Drug	Trade Name(s)	Class	Penalty Class
Alfentanil	Alfenta	1	A
Amphetamine		1	A
Anileridine	Leritine	1	A
Apomorphine		1	A
Benzylpiperazine (BZP)		1	A
Carfentanil		1	A
Cathinone		1	A
a-Cobratoxin		1	A
Cocaine		1	B
Codeine		1	A
DEA Schedule 1 (all)*			
Dextromoramide	Palfium, Narcolo	1	A
Diamorphine		1	A
Donepezil	Aricept	1	A
Endorphins		1	A
Enkephalins		1	A
Ethylmorphine	Dionin	1	A
Etorphine HCl	M99	1	A
Fentanyl	Sublimaze	1	A
Heroin		1	A
Hydrocodone (dihydrocodienone)	Hydocane	1	A
Hydromorphone	Dilaudid	1	A
Hydroxyamphetamine	Paradrine	1	A

Drug	TradeName(s)	Class	Penalty Class
Levorphanol	Levo-Dremoran	1	A
Lofentanil		1	A
Mazindol	Sanorex	1	A
Meperidine	Demerol	1	A
Mephentermine	Wyamine	1	A
Metaraminol	Aramine	1	A
Methadone	Dolophine	1	A
Methamphetamine	Desoxyn	1	A
Methaqualone	Quaalude	1	A
Methcathinone		1	A
Methylphenidate	Ritalin	1	A
Metopon (methyldihydromorphinone)		1	A
Morphine		1	B
Nikethamide	Coramine	1	A
Oxycodone	Percodan	1	A
Oxymorphone	Numorphan	1	A
Pemoline	Cylert	1	A
Pentylenetetrazol	Metrazol, Nloric	1	A
Phenazocine	Narphen	1	A
Phencyclidine (PCP)	Sernylan	1	A
Phendimetrazine	Bontril, etc.	1	A
Phenmetrazine	Preludin	1	A
Picrotoxin		1	A
Piritramide		1	A

Listing By Classification

Class 1: Stimulant and depressant drugs that have the highest potential to affect performance and that have no generally accepted medical use in the racing horse. Many of these agents are Drug Enforcement Agency (DEA) Schedule II substances. These include the following drugs and their metabolites: Opiates, opium derivatives, synthetic opioids, psychoactive drugs, all DEA Schedule 1* substances (see http://www.usdoj.gov/dea/pubs/scheduling.html), amphetamines and amphetamine-like drugs as well as related drugs, including but not limited to apomorphine, nikethamide, mazindol, pemoline, and pentylenetetrazol.

Drug	Trade Name(s)	Class	Penalty Class
Remifentanil	Ultiva	1	A
Strychnine		1	B
Sufentanil	Sufenta	1	A
Ziconotide		1	A

Listing by Classification

Class 2: Drugs that have a high potential to affect performance, but less of a potential than Class 1. These drugs are 1) not generally accepted as therapeutic agents in racing horses, or 2) they are therapeutic agents that have a high potential for abuse.

Drug	Trade Name(s)	Class	Penalty Class
Acecarbromal		2	A
Acetophenazine	Tindal	2	A
Adinazolam		2	A
Alclofenac		2	
Alcuronium	Alloferin	2	A
Alphaprodine	Nisentil	2	A
Alpidem	Anaxyl	2	A
Alprazolam	Xanax	2	A
Althesin	Saffan	2	A
Amisulpride	Solian	2	A
Amitriptyline	Elavil, Amitril, Endep	2	A
Amobarbital	Amytal	2	A
Amoxapine	Asendin	2	A
Amperozide		2	A
Anilopam	Anisine	2	A
Aprobarbital	Alurate	2	A
Articaine	Septocaine; Ultracaine, etc.	2	A
Atomoxetine	Strattera	2	A
Atracurium	Tracrium	2	A
Azacylonol	Frenque	2	A
Azaperone	Stresnil, Suicalm, Fentaz	2	A
Barbital	Veronal	2	A
Barbiturates		2	A
Bemegride	Megimide, Mikedimide	2	A
Benoxaprofen		2	A
Benperidol	Anquil	2	A
Bentazepam	Tiadipona	2	A

Drug	Trade Name(s)	Class	Penalty Class
Benzactizine	Deprol, Bronchodiletten	2	A
Benzoctamine		2	A
Benzodiazepines		2	A
Benzphetamine	Didrex	2	A
Benztropine	Cogentin	2	A
Biriperone		2	A
Brimonidine		2	A
Bromazepam	Lexotan, Lectopam	2	A
Bromisovalum	Diffucord, etc.	2	A
Bromocriptine	Parlodel	2	A
Bromperidol	Bromidol	2	A
Brotizolam	Brotocol	2	A
Bupivacaine	Marcaine	2	A
Buprenorphine	Temgesic	2	A
Buspirone	Buspar	2	A
Buspropion	Wellbutrin	2	A
Butabarbital	Butacaps, Butasol, etc.	2	A
Butalbital (Talbutal)	Fiorinal	2	A
Butanilicaine	Hostacain	2	A
Butaperazine	Repoise	2	A
Butoctamide	Listomin	2	A
Caffeine		2	B
Camazepam	Paxor	2	A
Captodiame	Covatine	2	A
Carbidopa + levodopa	Sinemet	2	A
Carbromol	Mifudorm	2	A
Carisoprodol	Soma, Rela	2	B

Listing by Classification

Class 2: Drugs that have a high potential to affect performance, but less of a potential than Class 1. These drugs are 1) not generally accepted as therapeutic agents in racing horses, or 2) they are therapeutic agents that have a high potential for abuse.

Drug	Trade Name(s)	Class	Penalty Class
Carphenazine	Proketazine	2	A
Carpipramine	Prazinil	2	A
Carticaine (see articaine)	Septocaine; Ultracaine, etc.	2	A
Chloralose (Alpha-Chloralose)		2	A
Chloral betaine	Beta-Chlor	2	A
Chloral hydrate	Nactec, Oridrate, etc.	2	A
Chloraldehyde (chloral)		2	A
Chlordiazepoxide	Librium	2	A
Chlormezanone	Trancopal	2	A
Chloroform		2	A
Chlorhexidol		2	A
Chloroprocaine	Nesacaine	2	A
Chlorproethazine	Newiplege	2	A
Chlorpromazine	Thorazine, Largactil	2	A
Chlorprothixene	Taractan	2	A
Citalopram	Celex	2	A
Clobazam	Urbanyl	2	A
Clocapramine		2	A
Clomethiazole		2	A
Clomipramine	Anafranil	2	A
Clonazepam	Klonopin	2	A
Clorazepate	Tranxene	2	A
Clothiapine	Entermin	2	A
Clotiazepam	Trecalmo, Rize	2	A
Cloxazolam	Enadel, Sepazon, Tolestan	2	A
Clozapine	Clozaril, Leponex	2	A
Conorphone		2	A
Corticaine	Ultracain	2	A
Crotetamide		2	A
Cyamemazine	Tercian	2	A
Cyclobarbital	Phanodorm	2	A
Darbepoetin	Aranesp	2	A
Decamethonium	Syncurine	2	A
Demoxepam		2	A
Desipramine	Norpromine, Pertofrane	2	A
Dezocine	Dalgan®	2	A
Diazepam	Valium	2	B
Dichloralphenazone	Febenol, Isocom	2	A
Diethylpropion	Tepanil, etc.	2	A
Diethylthiambutene	Themalon	2	A
Dihydrocodeine	Parcodin	2	A
Dilorazepam	Briantum	2	A
Diprenorphine	M50/50	2	A
Dixyrazine	Esucos	2	A
Dopamine	Intropin	2	A
Doxacurium	Nuromax	2	A
Doxapram	Dopram	2	A
Doxefazepam	Doxans	2	A
Doxepin	Adapin, Sinequan	2	A
Droperidol	Inapsine, Droleptan,	2	A
Duloxetine		2	A
Enciprazine		2	A
Ephedrine		2	A
Epibatidine		2	A

Listing by Classification

Class 2: Drugs that have a high potential to affect performance, but less of a potential than Class 1. These drugs are 1) not generally accepted as therapeutic agents in racing horses, or 2) they are therapeutic agents that have a high potential for abuse.

Drug	Trade Name(s)	Class	Penalty Class
Epinephrine		2	A
Ergoloid Mesylates (dihydroergocornine Mesylate, dihydroergocristine mesylate and dihydroergocryptine mesylate)	Hydergine	2	A
Erythropoietin (EPO)	Epogen, Procrit, etc.	2	A
Estazolam	Domnamid, Eurodin, Nuctalon	2	A
Ethamivan		2	A
Ethanol		2	A
Ethchlorvynol	Placidyl	2	A
Ethinamate	Valmid	2	A
Ethopropazine	Parsidol	2	A
Ethylisobutrazine	Diquel	2	A
Etidocaine	Duranest	2	A
Etifoxin	Stresam	2	A
Etizolam	Depas, Pasaden	2	A
Etodroxizine	Indunox	2	A
Etomidate		2	A
Fenarbamate	Tymium	2	A
Fenclozic Acid	Cincopal	2	A
Fenfluramine	Pondimin	2	A
Fluanisone	Sedalende	2	A
Fludiazepam	Erispam	2	A
Flunitrazepam	Rohypnol, Narcozep, Darkene, Hypnodorm	2	A
Fluopromazine	Psyquil, Siquil	2	A
Fluoresone	Caducid	2	A
Fluoxetine	Prozac	2	A
Flupenthixol	Depixol, Fluanxol	2	A
Fluphenazine	Prolixin, Permitil, Anatensol,	2	A
Flurazepam	Dalmane	2	A
Fluspirilene	Imap, Redeptin	2	A
Flutoprazepam	Restas	2	A
Fluvoxamine	Dumirox, Faverin, etc.	2	A
Galantamine	Reminyl	2	A
Gallamine	Flaxedil	2	A
Gepirone		2	A
Glutethimide	Doriden	2	A
Halazepam	Paxipam	2	A
Haloperidol	Haldol	2	A
Haloxazolam	Somelin	2	A
Hemoglobin glutamers	Oxyglobin, Hemopure	2	A
Hexafluorenium	Myalexen	2	A
Hexobarbital	Evipal	2	A
Homophenazine	Pelvichthol	2	A
Hydroxyzine	Atarax	2	B
Ibomal	Noctal	2	A
Imipramine	Imavate, Presamine,	2	A
Isapirone		2	A
Isocarboxazid	Marplan	2	A
Isomethadone		2	A
Isoproterenol	Isoprel	2	A
Isoxicam	Maxicam	2	A
Ketamine	Ketalar, Ketaset, Vetalar	2	B

Listing by Classification

Class 2: Drugs that have a high potential to affect performance, but less of a potential than Class 1. These drugs are 1) not generally accepted as therapeutic agents in racing horses, or 2) they are therapeutic agents that have a high potential for abuse.

Drug	Trade Name(s)	Class	Penalty Class
Ketazolam	Anxon, Laftram, Solatran, Loftran	2	A
Lenperone	Elanone-V	2	A
Levamisole		2	B
Levomethorphan		2	A
Lidocaine	Xylocaine	2	B
Lithium	Lithizine, Duralith, etc.	2	A
Lobeline		2	A
Loflazepate, Ethyl	Victan	2	A
Loperamide	Imodium	2	A
Loprazolam	Dormonort, Havlane	2	A
Lorazepam	Ativan	2	A
Lormetazepam	Noctamid	2	A
Loxapine	Laxitane	2	A
Maprotiline	Ludiomil	2	A
Mebutamate	Axiten, Dormate, Capla	2	A
Meclofenoxate	Lucidiril, etc.	2	A
Medazepam	Nobrium, etc.	2	A
Melperone	Eunerpan	2	A
Memantine	Namenda	2	A
Meparfynol	Oblivon	2	A
Mepazine	Pacatal	2	A
Mephenoxalone	Control, etc.	2	A
Mephenytoin	Mesantoin	2	A
Mephobarbital	Mebaral	2	A
Mepivacaine	Carbocaine	2	B
Meprobamate	Equanil, Miltown	2	A
Mesoridazine	Serentil	2	A
Metaclazepam	Talis	2	A
Metazocine		2	A
Metharbital	Gemonil	2	A
Methohexital	Brevital	2	A
Methotrimeprazine	Levoprome, Neurocil, etc.	2	A
Methyprylon	Noludar	2	A
Metocurine	Metubine	2	A
Metomidate	Hypnodil	2	A
Mexazolam	Melex	2	A
Midazolam	Versed	2	A
Mirtazepine	Remeron	2	A
Mivacurium	Mivacron	2	A
Modafinil	Provigil	2	A
Molindone	Moban	2	A
Moperone	Luvatren	2	A
Mosaprimine		2	A
Nalbuphine	Nubain	2	A
Nalorphine	Nalline, Lethidrone	2	A
Nefazodone	Serzone	2	A
Nimetazepam	Erimin	2	A
Nitrazepam	Mogadon	2	A
Nordiazepam	Calmday, Nordaz, etc.	2	A
Norepinephrine		2	A
Nortriptyline	Aventyl, Pamelor	2	A
Olanzepine	Zyprexa	2	A
Oxazepam	Serax	2	A

Listing by Classification

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Drug	Trade Name(s)	Class	Penalty Class
Oxazolam	Serenal	2	A
Oxilofrine (hydroxyephedrine)		2	A
Oxyperitine	Forit, Integrin	2	A
Paliperidone		2	A
Pancuronium	Pavulon	2	A
Paraldehyde	Paral	2	A
Paroxetine	Paxil, Seroxat	2	A
Penfluridol	Cyperon	2	A
Pentobarbital	Nembutal	2	A
Perazine	Taxilan	2	A
Perfluorodecolin		2	A
Perfluorodecahydronophthalene		2	A
Perfluorooctylbromide		2	A
Perfluorotripropylamine		2	A
Perfluorocarbons		2	A
Periciazine	Alodept, etc.	2	A
Perlapine	Hypnodin	2	A
Perphenazine	Trilafon	2	A
Phenaglycodol	Acalo, Alcamid, etc.	2	A
Phenelzine	Nardelzine, Nardil	2	A
Phenobarbital	Luminal	2	A
Phentermine	Iomamin	2	A
Piminodine	Alvodine, Cimadon	2	A
Pimozide	Orap	2	A
Pinazepam	Domar	2	A
Pipamperone	Dipiperon	2	A
Pipecuronium	Arduan	2	A
Pipequaline		2	A
Piperacetazine	Psymod, Quide	2	A
Piperocaine	Metycaine	2	A
Pipotiazine	Lonseren, Piportil	2	A
Pipradrol	Dataril, Gerondyl, etc.	2	A
Piquindone		2	A
Prazepam	Verstran, Centrax	2	A
Prilocaine	Citanest	2	A
Prochlorperazine	Darbazine, Compazine	2	A
Propanidid		2	A
Propiomazine	Largon	2	A
Propionylpromazine	Tranvet	2	A
Propiram		2	A
Propofol	Diprivan, Disoprivan	2	A
Propoxycaine	Ravocaine	2	A
Prothipendyl	Dominal	2	A
Protriptyline	Concordin, Triptil	2	A
Proxibarbital	Axeen, Centralgol	2	A
Pyrithyldione	Hybersulfan, Sonodor	2	A
Quazipam	Doral	2	A
Quetiapine	Seroquel	2	A
Racemethorphan		2	A
Racemorphan		2	A
Raclopride		2	A
Remoxipride	Roxiam	2	A
Reserpine	Serpasil	2	A
Rilmazafone		2	A

Listing by Classification

Class 2: Drugs that have a high potential to affect performance, but less of a potential than Class 1. These drugs are 1) not generally accepted as therapeutic agents in racing horses, or 2) they are therapeutic agents that have a high potential for abuse.

Drug	Trade Name(s)	Class	Penalty Class
Risperidone		2	A
Ritanserin		2	A
Rivastigmine	Exelon	2	A
Rocuronium	Zemuron	2	A
Rofecoxib	Vioxx	2	A
Romifidine	Sedivet	2	B
Ropivacaine	Naropin	2	A
Secobarbital	Seconal	2	A
Selegiline	Eldepryl, Jumex	2	A
Sertraline	Lustral, Zoloft	2	A
Snake Venoms		2	A
Somatrem	Protropin	2	A
Somatropin	Nutropin	2	A
Spiclomazine		2	A
Spiperone		2	A
Succinylcholine	Sucostrin, Quelin, etc.	2	A
Sulfondiethylmethane		2	A
Sulfonmethane		2	A
Sulforidazine	Inofal	2	A
Sulpiride	Aiglonyl, Sulpitil	2	A
Sultopride	Barnetil	2	A
Talbutal	Lotusate	2	A
Tandospirone		2	A
Temazepam	Restoril	2	A
Tetrabenazine	Nitoman	2	A
Tetracaine	Pontocaine	2	A
Tetrazepam	Musaril, Myolastin	2	A
Thebaine		2	A
Thialbarbital	Kemithal	2	A
Thiamylal	Surital	2	A
Thiethylperazine	Torecan	2	A
Thiopental	Pentothal	2	A
Thiopropazate	Dartal	2	A
Thioproperazine	Majeptil	2	A
Thioridazine	Mellaril	2	A
Thiothixene	Navane	2	A
Tiapride	Italprid, Luxoben, etc.	2	A
Tiletamine	Component of Telazol	2	A
Timiperone	Tolopelon	2	A
Tofisopam	Grandaxain, Seriel	2	A
Topirimate	Topamax	2	A
Tramadol	Ultram	2	A
Tranylcypromine	Parnate	2	A
Trazodone	Desyrel	2	A
Tretoquinol	Inolin	2	A
Triazolam	Halcion	2	A
Tribromethanol		2	A
Tricaine methanesulfonate	Finquel	2	A
Trichloroethanol		2	A
Tricholoethylene	Trilene, Trimar	2	A
Triclofos	Triclos	2	A
Trifluomeprazine	Nortran	2	A
Trifluoperazine	Stelazine	2	A
Trifluperidol	Triperidol	2	A

Listing by Classification

Class 2: Drugs that have a high potential to affect performance, but less of a potential than Class 1. These drugs are 1) not generally accepted as therapeutic agents in racing horses, or 2) they are therapeutic agents that have a high potential for abuse.

Drug	Trade Name(s)	Class	Penalty Class
Trifluprornazine	Vetame, Vesprin	2	A
Trimipramine	Surmontil	2	A
Tubocurarine (Curare)	Metubin	2	A
Tybamate	Benvil, Nospan, etc.	2	A
Urethane		2	A
Valdecoxib		2	A
Valnoctamide	Nirvanyl	2	A
Venlafaxine	Efflexor	2	A
Veralipride	Accional, Veralipril	2	A
Vercuronium	Norcuron	2	A
Viloxazine	Catatrol, Vivalan, etc.	2	A
Vinbarbital	Delvinol	2	A
Vinylbital	Optanox, Speda	2	A
Yohimbine		2	A
Zaleplon	Sonata	2	A
Ziprasidone	Geodon	2	A
Zolazepam		2	A
Zolpidem	Ambien, Stilnox	2	A
Zomepirac	Zomax	2	A
Zopiclone	Imovan	2	A
Zotepine	Lodopin	2	A
Zuclopenthixol	Ciatyl, Cesordinol	2	A

Listing by Classification

Class 3: Drugs that may or may not have generally accepted medical use in the racing horse, but the pharmacology of which suggests less potential to affect performance than drugs in Class 2.

Drug	Trade Name(s)	Class	Penalty Class
Acebutolol	Sectral	3	B
Acepromazine	Atrovet, Notensil, PromAce®	3	B
Albuterol (Salbutamol)	Proventil, Ventolin	3	B
Almotriptan	Axert	3	A
Alprenolol		3	A
Ambenonium	Mytelase, Myeuran	3	B
Aminophylline	Aminophyllin, etc.	3	B
Amitraz	Mitaban	3	A
Amlodipine	Norvasc	3	A
Amyl nitrite		3	A
Arecoline		3	A
Arformoterol		3	A
Atenolol	Tenormin	3	B
Atropine		3	B
Benazeprilat, Benazepril and MC-Tab	Lotensin	3	A
Betaxolol	Kerlone	3	B
Bethanidine	Esbatal	3	A
Biperiden	Akineton	3	A
Bisoprolol	Zebeta, Bisobloc, etc.	3	B
Bitolterol	Effectin	3	A
Bolasterone		3	A
Boldenone	Equipoise	3	B
Boldione		3	A
Bretylium	Bretylol	3	B
Brimonidine	Alphagan	3	B
Bromfenac	Duract	3	A
Bromodiphenhydramine		3	B
Bufexamac		3	A
Bumetanide	Bumex	3	B
Butorphanol	Stadol, Torbugesic	3	B
N-Butylscopolamine		3	B
Calusterone		3	B
Candesartan	Atacand	3	B
Captopril	Capolen	3	B
Carazolol	Carbacel, Conducton	3	A
Carbachol	Lentin, Doryl	3	B
Carbamezapine	Tegretol	3	B
Carbinoxamine	Clistin	3	B
Carteolol	Cartrol	3	B
Carvedilol	Coreg	3	B
Celecoxib	Celebrex	3	B
Cimeterol		3	A
Clemastine	Tavist	3	B
Clenbuterol	Ventipulmin	3	B
Clidinium	Quarezan, Clindex, etc.	3	B
Clonidine	Catapres	3	B
Clostebol		3	B
Cyclandelate	Cyclospasmol	3	A

Listing by Classification

Class 3: Drugs that may or may not have generally accepted medical use in the racing horse, but the pharmacology of which suggests less potential to affect performance than drugs in Class 2.

Drug	Trade Name(s)	Class	Penalty Class
Cycrimine	Pagitane	3	B
Danazol	Danocrine	3	B
Dehydrochloromethyltestosterone		3	B
Deracoxib	Deremaxx	3	B
Desoxymethyltestosterone		3	B
Detomidine	Dormosedan	3	B
Dextropropoxyphene	Darvon	3	B
Diazoxide	Proglycem	3	B
Diflunisal		3	B
Dimefline		3	A
Diphenhydramine	Benadryl	3	B
Dipyridamole	Persantine	3	B
Divalproex	Depakote	3	A
Dobutamine	Dobutrex	3	B
Doxazosin		3	A
Doxylamine	Decapryn	3	B
Dromostanolone	Drolban	3	B
Dyphylline		3	B
Edrophonium	Tensilon	3	B
Eletriptan	Relpax	3	A
Enalapril (metabolite enalaprilat)	Vasotec	3	B
Ergoloid mesylates		3	B
Erthrityl tetranitrate	Cardilate	3	A
Esmolol	Brevibloc	3	B
Etamiphylline		3	B
Ethacrynic acid	Edecrin	3	B
Ethosuximide	Zarontin	3	A
Ethylestrenol	Maxibolin, Organon	3	B
Ethylnorepinephrine	Bronkephrine	3	A
Etodolac	Lodine	3	B
Felbamate	Felbatol	3	A
Fenbufen	Cincopal	3	B
Fenoldopam	Corlopam	3	B
Fenoprofen	Nalfon	3	B
Fenoterol	Berotec	3	B
Fenspiride	Respiride, Respan, etc	3	B
Fentiazac		3	B
Flurbiprofen	Froben	3	B
Flufenamic Acid		3	B
Fluoxymesterone	Halotestin	3	B
Flupirtine	Katadolone	3	A
Formebolone		3	B
Formoterol	Altram	3	B
Fosinopril, Fosinoprilat	Monopril	3	A
Fosphenytoin	Cerebyx	3	B
Furazabol		3	B
Gabapentin	Neurontin	3	B
Gestrinone		3	A
Glycopyrrolate	Robinul	3	B

Listing by Classification

Class 3: Drugs that may or may not have generally accepted medical use in the racing horse, but the pharmacology of which suggests less potential to affect performance than drugs in Class 2.

Drug	Trade Name(s)	Class	Penalty Class
Guanadrel	Hylorel	3	A
Guanethidine	Ismelin	3	A
Guanabenz	Wytensin	3	B
Heptaminol	Corofundol	3	B
Homatropine	Homapin	3	B
Hydralazine	Apresoline	3	B
4-Hydroxytestosterone		3	B
Ibutilide	Corvert	3	B
Iloprost	Ventavis	3	A
Indomethacin	Indocin	3	B
Ipratropium		3	B
Irbesarten	Avapro	3	A
Isoetharine	Bronkosol	3	B
Isosorbide dinitrate	Isordil	3	B
Kebuzone		3	B
Ketorolac	Toradol	3	A
Labetalol	Normodyne	3	B
Lamotrigine	Lamictal	3	A
Levobunolol	Betagan	3	B
Lisinopril	Prinivil, Zestril	3	A
Losartan	Hyzaar	3	B
Mabuterol		3	A
Mecamylamine	Inversine	3	B
Medetomidine	Domitor	3	B
Mefenamic Acid	Ponstel	3	B
Mepenzolate	Cantil	3	A
Mestanolone		3	B
Mesterolone		3	B
Metaproterenol	Alupent, Metaprel	3	B
Metenolone		3	B
Methachloline		3	A
Methandienone		3	B
Methandriol	Probolic	3	B
Methandrostenolone	Dianabol	3	A
Methantheline	Banthine	3	B
Methasterone		3	A
Methixene	Trest	3	A
Methoxamine	Vasoxyl	3	A
Methoxyphenamine	Orthoxide	3	A
Methsuximide	Celontin	3	A
Methylatropine		3	B
Methyldienolone		3	B
Methyldopa	Aldomet	3	A
Methylnortestosterone		3	B
Methyltestosterone	Metandren	3	A
Methyl-1-testosterone		3	A
Metolazone		3	B
Metoprolol	Lopressor	3	B
Mibefradil	Posicor	3	B

Listing by Classification

Class 3: Drugs that may or may not have generally accepted medical use in the racing horse, but the pharmacology of which suggests less potential to affect performance than drugs in Class 2.

Drug	Trade Name(s)	Class	Penalty Class
Mibolerone		3	B
Midodrine	Pro-Amiline	3	B
Minoxidil	Loniten	3	B
Moexipril (metabolite moexiprilat)	Uniretic	3	B
Muscarine		3	A
Nabumetone	Anthraxan, Relafen, Reliflex	3	A
Nadol	Corgard	3	B
Naloxone	Narcan	3	A
Naltrexone	Revia	3	A
Nandrolone	Nandrolin, Laurabolin, Durabolin	3	B
Naratriptan	Amerge	3	B
Nebivolol		3	A
Nefopam		3	A
Neostigmine	Prostigmine	3	B
Niflumic Acid	Nifluril	3	B
Nimesulide		3	B
Nitroglycerin		3	B
19-Norandrostenediol		3	B
19-Norandrostenedione		3	B
Norbolethone		3	B
Norclostebol		3	B
Norethandrolone		3	A
Nylidrine	Arlidin	3	A
Olmesartan	Benicar	3	A
Oxabolone		3	B
Oxandrolone	Anavar	3	B
Oxcarbazepine	Trileptal	3	A
Oxprenolol	Trasicor	3	B
Oxymesterone		3	B
Oxymetholone	Adroyd, Anadrol	3	B
Papaverine	Pavagen, etc.	3	A
Paramethadione	Paradione	3	A
Pargyline	Eutonyl	3	A
Penbutolol	Levatol	3	B
Pentaerythritol tetranitrate	Duotrate	3	A
Pentazocine	Talwin	3	B
Perindopril	Biprel	3	A
Phenoxybenzamine	Dibenzyline	3	B
Phentolamine	Regitine	3	B
Phenylephrine	Isophrin, Neo-Synephrine	3	B
Phenylpropanolamine	Propadrine	3	B
Physostigmine	Eserine	3	B
Pindolol	Viskin	3	A
Pirbuterol	Maxair	3	A
Piretanide	Arelix, Tauliz	3	B
Piroxicam	Feldene	3	B
Prazosin	Minipress	3	B
Primidone	Mysoline	3	B
Procaine		3	B

Listing by Classification

Class 3: Drugs that may or may not have generally accepted medical use in the racing horse, but the pharmacology of which suggests less potential to affect performance than drugs in Class 2.

Drug	Trade Name(s)	Class	Penalty Class
Procaterol	Pro Air	3	A
Procyclidine	Kemadrin	3	B
Promazine	Sparine	3	B
Promethazine	Phenergan	3	B
Propantheline	Pro-Banthine	3	A
Propentophylline	Karsivan	3	B
Propranolol	Inderal	3	B
Prostanazol		3	B
Protokylol	Ventaire	3	A
Pseudoephedrine	Cenafed, Novafed	3	B
Pyridostigmine	Mestinon, Regonol	3	B
Pyrilamine	Neoantergan, Equihist	3	A
Quinapril, Quinaprilat	Accupril	3	A
Quinbolone		3	B
Ractopamine	Raylean	3	A
Ramipril, metabolite Ramiprilat	Altace	3	A
Ritodrine	Yutopar	3	B
Rizatriptan	Maxalt	3	B
Salmeterol		3	B
Scopolamine (Hyoscine)	Triptone	3	B
Sibutramine	Meridia	3	B
Sildenafil	Viagra	3	A
Sotalol	Betapace, Sotacor	3	B
Spirapril, metabolite Spiraprilat	Renomax	3	A
Stanozolol	Winstrol-V	3	B
Stenbolone		3	B
Sulindac	Clinoril	3	A
Sumatriptan	Imitrex	3	B
Tadalasil	Cialis	3	A
Telmisartin	Micardis	3	B
Tenoxicam	Alganex, etc.	3	B
Tepoxalin		3	B
Terazosin	Hytrin	3	A
Terbutaline	Brethine, Bricanyl	3	B
Testolactone	Teslac	3	B
Testosterone		3	B
Tetrahydrogestrinone		3	A
Theophylline	Aqualphyllin, etc.	3	B
Tiaprofenic Acid	Surgam	3	B
Timolol	Blocardrin	3	B
Tolazoline	Priscoline	3	B
Tolmetin	Tolectin	3	B
Torsemide (Torasemide)	Demadex	3	A
Trandolapril (and metabolite, Trandolaprilat)	Tarka	3	B
Trenbolone	Finoplix	3	B
Trihexylphenidyl	Artane	3	A
Trimethadione	Tridione	3	B

Listing by Classification

Class 3: Drugs that may or may not have generally accepted medical use in the racing horse, but the pharmacology of which suggests less potential to affect performance than drugs in Class 2.

Drug	Trade Name(s)	Class	Penalty Class
Trimethaphan	Arfonad	3	A
Tripelennamine	PBZ	3	B
Valerenic acid		3	A
Valsartan	Diovan	3	B
Vardenafil	Levitra	3	A
Xylazine	Rompun, Bay Va 1470	3	B
Zolmitriptan	Zomig	3	B
Zonisamide	Zonegran	3	B
Δ-1-androstene-3, 17-diol		3	A
Δ-1-androstene-3, 17-dione		3	A
Δ-1-dihydrotestosterone		3	A

Listing by Classification

Class 4: This class includes therapeutic medications that would be expected to have less potential to affect performance than those in Class 3.

Drug	Trade Name(s)	Class	Penalty Class
Acetaminophen (Paracetamol)	Tylenol, Tempra, etc.	4	C
Acetanilid		4	B
Acetazolamide	Diamox, Vetamox	4	B
Acetophenetidin (Phenacetin)		4	B
Acetylsalicylic acid (Aspirin)		4	C
Aclomethasone	Aclovate	4	C
Adrenochrome monosemicarbazone salicylate		4	B
Aldosterone	Aldocortin, Electrocortin	4	B
Ambroxol	Ambril, etc.	4	B
Amcinonide	Cyclocort	4	C
Amiloride	Moduretic; Midamor	4	B
Aminocaproic acid	Amicar, Caprocid	4	C
Aminodarone		4	B
2-Aminoheptaine	Tuamine	4	B
Aminopyrine		4	B
Amisometradine	Rollctron	4	B
Amlopidine	Norvasc, Ammivin	4	B
Amrinone		4	B
Anisotropine	Valpin	4	B
Antipyrine		4	B
Apazone (Azapropazone)	Rheumox	4	B
Aprindine		4	B
Baclofen	Lioresal	4	B
Beclomethasone	Propaderm	4	C
Benazepril	Lotrel	4	B
Bendroflumethiazide	Naturetin	4	B
Benoxinate	Dorsacaine	4	C
Benzocaine		4	B
Benzthiazide		4	B
Bepridil	Bepadin	4	B
Betamethasone	Betasone, etc.	4	C
Bethanechol	Urecholine, Duvoid	4	C
Bromhexine	Oletor, etc.	4	B
Brompheniramine	Dimetane, Disomer	4	B
Budesonide	Pulmacort, Rhinocort	4	B
Butacaine	Butyn	4	C
Butamben (butyl aminobenzoate)	Butesin	4	C
Butoxycaine	Stadacain	4	B
Camphor		4	C
Carprofen	Rimadyl	4	B
Cetirizine	Zyrtec	4	B
Chlormerodrin	Neohydrin	4	B
Chlorophenesin	Maolate	4	C
Chloroquine	Avloclor	4	C
Chlorothiazide	Diuril	4	B
Chlorpheniramine	Chlortriemton, etc.	4	B
Chlorthalidone	Hydroton	4	B
Chlorzoxazone	Paraflex	4	B
Ciclesonide		4	B
Cinchocaine	Nupercaine	4	C
Clanobutin		4	B
Clibucaine	Batrax	4	C
Clobetasol	Temovate	4	C

Listing by Classification

Class 4: This class includes therapeutic medications that would be expected to have less potential to affect performance than those in Class 3.

Drug	Trade Name(s)	Class	Penalty Class
Clocortolone	Cloderm	4	C
Clofenamide		4	B
Clormecaine	Placacid	4	C
Colchicine		4	B
Cortisone	Cortone, etc.	4	C
Cyclizine	Merazine	4	B
Cyclobenzaprine	Flexeril	4	B
Cyclomethylcaine	Surfacaine	4	C
Cyclothiazide	Anhydron, Renazide	4	B
Cyproheptadine	Periactin	4	C
Dantrolene	Dantrium	4	C
Dembroxol (Dembrexine)	Sputolysin	4	C
Deoxycorticosterone	Percortin, DOCA, Descotone, Dorcostrin	4	C
Desonite	Des Owen	4	C
Desoximetasone	Topicort	4	C
Dexamethasone	Azium, etc.	4	C
Dextromethorphan		4	B
Dibucaine	Nupercainal, Cinchocaine	4	C
Dichlorphenamide	Daramide	4	C
Diclofenac	Voltaren, Voltarol	4	C
Diflorasone	Florone, Maxiflor	4	C
Diflucortolone	Flu-Cortinest, etc.	4	C
Digitoxin	Crystodigin	4	B
Digoxin	Lanoxin	4	B
Dihydroergotamine		4	B
Diltiazem	Cardizem	4	B

Drug	Trade Name(s)	Class	Penalty Class
Dimethisoquin	Quotane	4	B
Diphenoxylate	Difenoxin, Lomotil	4	B
Dipyrone	Novin, Methampyrone	4	C
Disopyramide	Norpace	4	B
Dyclonine	Dyclone	4	C
Eltenac		4	C
Ergonovine	Ergotrate	4	C
Ergotamine	Gynergen, Cafergot, etc.	4	B
Etanercept	Enbrel	4	B
Ethoheptazine	Zactane	4	B
Ethotoin	Peganone	4	B
Ethoxzolamide	Cardrase, Ethamide	4	C
Ethylaminobenzoate (Benzocaine)	Semets, etc.	4	C
Felodipine	Plendil	4	B
Fexofenadine	Allegra	4	C
Firocoxib		4	B
Flecainide	Idalon	4	B
Floctafenine	Idalon, Idarac	4	B
Flucinolone	Synalar, etc.	4	C
Fludrocortisone	Alforone, etc.	4	C
Flumethasone	Flucort, etc.	4	C
Flumethiazide	Ademol	4	B
Flunarizine	Sibelium	4	B
Flunisolide	Bronilide, etc.	4	C
Flunixin	Banamine	4	C*
Fluocinolone	Synalar	4	C

Listing by Classification

Class 4: This class includes therapeutic medications that would be expected to have less potential to affect performance than those in Class 3.

Drug	Trade Name(s)	Class	Penalty Class
Fluocinonide	Licon, Lidex	4	C
Fluorometholone	FML	4	B
Fluoroprednisolone	Predef-2X	4	C
Fluprednisolone	Alphadrol	4	C
Flurandrenolide	Cordran	4	C
Fluticasone	Flixonase, Flutide	4	C
Guaifenesin (glycerol guiacolate)	Gecolate	4	C
Halcinonide	Halog	4	C
Halobetasol	Ultravate	4	C
Hexocyclium	Tral	4	B
Hexylcaine	Cyclaine	4	C
Hydrochlorthiazide	Hydrodiuril	4	B
Hydrocortisone (Cortisol)	Cortef, etc.	4	C
Hydroflumethiazide	Saluron	4	B
Ibuprofen	Motrin, Advil, Nurpin, etc.	4	C
Infliximab	Remicade	4	B
Isoflupredone	Predef	4	C
Isometheptene	Octin, Octon	4	B
Isopropamide	Darbid	4	B
Isoxsuprine	Vasodilan	4	C
Isradipine	DynaCirc	4	B
Ketoprofen	Orudis	4	C*
Letosteine	Viscotiol, Visiotal	4	C
Loratidine	Claritin	4	B
Meclizine	Antivert, Bonine	4	B
Meclofenamic acid	Arquel	4	C
Medrysone	Medriusar, etc.	4	C

Drug	Trade Name(s)	Class	Penalty Class
Meloxicam	Mobic	4	B
Mephenesin	Tolserol	4	B
Meralluride	Mercuhydrin	4	B
Merbaphen	Novasural	4	B
Mercaptomerin	Thiomerin	4	B
Mercumallilin	Cumertilin	4	B
Mersalyl	Salyrgan	4	B
Metaxalone	Skelaxin	4	B
Methapyrilene	Histadyl, etc.	4	B
Methazolamide	Naptazane	4	C
Methdilazine	Tacaryl	4	B
Methocarbamol	Robaxin	4	B
Methotrexate	Folex, Nexate, etc.	4	B
Methscopolamine	Pamine	4	B
Methylchlorthiazide	Enduron	4	B
Methylergonovine	Methergine	4	C
Methylprednisolone	Medrol	4	C
Methysergide	Sansert	4	B
Metiamide		4	B
Metoclopramide	Reglan	4	C
Mexilitine	Mexitil	4	B
Milrinone		4	B
Mometasone	Elocon	4	C
Montelukast	Singulair	4	C
Naepaine	Amylsine	4	C
Naphazoline	Privine	4	B
Naproxen	Equiproxen, Naprosyn	4	C

Listing by Classification

Class 4: This class includes therapeutic medications that would be expected to have less potential to affect performance than those in Class 3.

Drug	Trade Name(s)	Class	Penalty Class
Nicardipine	Cardine	4	B
Nifedipine	Procardia	4	B
Nimodipine	Nemotop	4	B
Nortestosterone		4	C
Olsalazine	Dipentum	4	B
Orphenadrine	Norflex	4	B
Oxaprozin	Daypro, Deflam	4	C
Oxymetazoline	Afrin	4	B
Oxyphenbutazone	Tandearil	4	C
Oxyphencyclimine	Daricon	4	B
Oxyphenonium	Antrenyl	4	B
Paramethasone	Haldrone	4	C
Pentoxyfylline	Trental, Vazofirin	4	C
Phenacemide	Phenurone	4	B
Phensuximide	Milontin	4	B
Phenylbutazone		4	C*
Phenytoin	Dilantin	4	B
Polythiazide	Renese	4	B
Pramoxine	Tronothaine	4	C
Prednisolone	Delta-Cortef, etc.	4	C
Prednisone	Meticorten, etc.	4	C
Probenecid		4	C
Procainamide	Pronestyl	4	B
Propafenone	Rythmol	4	B
Proparacaine	Ophthaine	4	C
Propylhexedrine	Benzedrex	4	B
Quinidine	Quinidex, Quinicardine	4	B
Salicylamide		4	C
Salicylate		4	C
Spironalactone	Aldactone	4	B
Sulfasalazine	Azulfidine, Azaline	4	C
Terfenadine	Seldane, Triludan	4	B
Tetrahydrozoline	Tyzine	4	B
Theobromine		4	B
Thiosalicylate		4	C
Thiphenamil	Trocinate	4	B
Tocainide	Tonocard	4	B
Tranexamic acid		4	C
Triamcinolone	Vetalog, etc.	4	C
Triamterene	Dyrenium	4	B
Trichlormethiazide	Naqua, Naquasone	4	C
Tridihexethyl	Pathilon	4	B
Trimeprazine	Temaril	4	B
Triprolidine	Actidil	4	B
Tuaminoheptane	Tuamine	4	C
Vedaprofen		4	B
Verapamil	Calan, Isoptin	4	B
Xylometazoline	Otrivin	4	C
Zafirlukast	Accolate	4	C
Zeranol	Ralgro	4	C
Zileuton	Zyflo	4	C

Listing by Classification

Class 5: This class includes those therapeutic medications for which concentration limits have been established by the racing jurisdictions as well as certain miscellaneous agents such as DMSO and other medications as determined by the regulatory bodies.

Drug	Trade Name(s)	Class	Penalty Class
Anisindione		5	C
Cilostazol	Pletal	5	C
Cimetidine	Tagamet	5	D
Cromolyn	Intel	5	C
Dicumarol	Dicumarol	5	C
Dimethylsulfoxide (DMSO)	Domoso	5	C
Dimethylsulphone (MSM)		5	C
Diphenadione		5	C
Esomeprazole	Nexium	5	D
Famotidine	Gaster, etc.	5	D
Lansoprazole		5	D
Mesalamine	Asacol	5	C
Misoprostel	Cytotec	5	C
Nedocromil	Tilade	5	C
Nizatidine	Axid	5	C
Omeprazole	Prilosec, Losec	5	D
Pantoprazole	Protonix	5	D
Phenindione	Hedulin	5	C
Phenprocoumon	Liquamar	5	C
Pirenzapine	Gastrozepin	5	C
Polyethylene glycol		5	C
Rabeprazole	Aciphex	5	C
Ranitidine	Zantac	5	D
Warfarin	Coumadin, Coufarin	5	C

Non-Classified Substances

Substances that are considered to have no effect on the physiology of a racing animal except to improve nutrition or treat or prevent infections or parasite infestations, are not classified. These Substances normally include antimicrobials, antiparasitic drugs, and nutrients such as vitamins. Examples of such substances include the following:

Sulfonamides and trimethoprim

Antibiotics:	Penicillins Cephalosporins Chloramphenicol Aminoglycosides Tetractckubes Nitrofurans Metronidazole
Anthelmintics:	Avermectins Benzimadaziles Piperazines Pyrantel Tetramisole
Antifungals	
Vitamins:	A, D, E, K, B vitamins Vitamin C
Bufotenine	

1. It is not commerically available in any form.
2. It is a metabolite of 3-methyl-N-N dimethyltryptamine, found in reed canary grass (and potentially other food source plants). It may be found in the urine of horses eating this grass (and potentially other plant foods), and has been reported as a positive finding.

Findings of bufotenine in equine urine should not be considered for regulatory action.

TABLE 178-1 E

PENALTY GUIDELINES FOR VIOLATIONS OF MEDICATION AND PROHIBITED SUBSTANCES RULE

The following are recommended penalties for violations due to the presence of a drug carrying a Category "A" penalty.

1st Offense	2nd LIFETIME offense in any juisdiction	3rd LIFETIME Offense in any jurisdiction
Minimum six (6) month suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a one (1) year suspension.	Minimum one (1) year suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a three (3) year suspension.	Minimum three (3) year suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a five (5) year suspension.
AND	**AND**	**AND**
Minimum fine of $1,000.00 absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum fine of $5,000.00.	Minimum fine of $2,500.00 absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum fine of $5,000.00.	$5,000.00 fine
AND	**AND**	**AND**
May be referred to the Racing Commission for any further action deemed necessary by the Commission.	May be referred to the Racing Commission for any further action deemed necessary by the Commission.	May be referred to the Racing Commission for any further action deemed necessary by the Commission.

1st Offense	2nd LIFETIME offense in any juisdiction	3rd LIFETIME Offense in any jurisdiction
Disqualification and loss of purse.	Disqualification and loss of purse.	Disqualification, loss of purse and $5,000.00 fine.
AND	**AND**	**AND**
Horse may be placed on the veterinarian's list for ninety (90) days and most pass a Commission approved examination before becoming eligible to be entered.	Horse shall be placed on the veterinarian's list for one hundred twenty (120) days and most pass a Commission approved examination before becoming eligible to be entered.	Horse shall be placed on the veterinarian's list for one hundred eighty (180) days and most pass a Commission approved examination before becoming eligible to be entered.
		AND
		Referral to the Commission with a recommended minimum suspension of ninety (90) days.

The following are recommended penalties for violations due to the presence of a drug carrying a Category "B" penalty.

1st Offense (365 day period in any jurisdiction)	2nd offense (365 day period in any juisdiction)	3rd Offense (365 day period in any jurisdiction)
Minimum fifteen (15) day suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a thirty (30) day suspension. **AND** No Fine. **AND** May be referred to the Racing Commission for any further action deemed necessary by the Commission.	Minimum thirty (30) day suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a forty-five (45) day suspension **AND** Minimum fine of $500.00 absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum fine of $1,000.00. **AND** May be referred to the Racing Commission for any further action deemed necessary by the Commission.	Minimum forty-five (45) day suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a sixty (60) day suspension **AND** Minimum fine of $1,000.00 absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum fine of $2,000.00. **AND** May be referred to the Racing Commission for any further action deemed necessary by the Commission.

1st Offense (365 day period in any jurisdiction)	2nd offense (365 day period in any juisdiction)	3rd Offense (365 day period in any jurisdiction)
Disqualification and loss of purse. **AND** Horse must pass a Racing Commission approved examination before becoming eligible to be entered.	Disqualification and loss of purse. **AND** Horse must pass a Racing Commission approved examination before becoming eligible to be entered.	Disqualification, loss of purse and $1,000.00 fine. **AND** Horse must pass a Racing Commission approved examination before becoming eligible to be entered.

The following are recommended penalties for violations due to the presence of a drug carrying a Category "C" penalty and overages for phenylbutazone and furosemide: ***(All concentrations are for measurements in serum or plasma.)***

[illegible]	[illegible]	[illegible]
1st Offense (365-day period) in any jurisdiction	Minimum fine of $250 absent mitigating circumstances	Minimum fine of $500 absent mitigating circumstances
2nd Offense (365-day period) in any jurisdiction	Minimum fine of $500 absent mitigating circumstances	Minimum fine of $1,000 and 15-day suspension absent mitigating circumstances
3rd Offense (365-day period) in any jurisdiction	Minimum fine of $1,000 and 15-day suspension absent mitigating circumstances	Minimum fine of $2,500 and 30-day suspension absent mitigating circumstances
[illegible]	[illegible]	[illegible]
1st Offense (365-day period) in any jurisdiction		Loss of purse. Horse must pass commission-approved examination before being eligible to run
2nd Offense (365-day period) in any jurisdiction		Loss of purse. If same horse, placed on veterinarian's list for 15 days, must pass commission-approved examination before being eligible to run
3rd Offense (365-day period) in any jurisdiction		Loss of purse. If same horse, placed on veterinarian's list for 30 days, must pass commission-approved examination before being eligible to run

PUBLIC COMMENTS

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3. Keith Berkeley, DVM, Valley Equine
4. WV Thoroughbred Breeders Association
5. Leonard Hale, Charles Town HBPA
6. Schay Swope, DVM
7. Dick Watson
8. James W. Casey
9.. James M. Casey, DVM
10. Jeff Johnston, Jockeys' Guild
11. Rose Mary Williams, Mountaineer Casino, Racetrack & Resort
12. Scot Waterman, DVM, Racing Medication & Testing Consortium
13. Martin Blaylock
14. Erich Zimny, Hollywood Casino at Charles Town Races
15. B. B. Butler, DVM

1

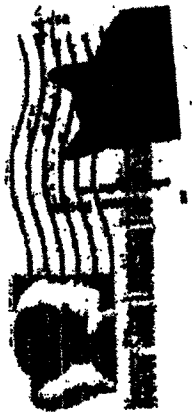
Dear Sirs,

Regarding the proposed veterinarian rules, I fear it will put an end to my saving and many others in West Virginia. We bought broodmares in Kentucky, bred to good Kentucky sires, and foaled them in West Virginia because of your state-bred

(2) program. We spend the night in Charlestown, eat at the track, and send our mare to a West Va. stallion now.

Your excellent racing program will come to a halt if you allow people who know nothing about horses, physiology and very little about racing to make your decisions.

Sincerely, Barbara Houck



EASTERN SHORE MD 216
10 JUN 2010 PM 2 T

THOROUGHBRED DIVISION
ATTN: Mr. Joe Smith
West Virginia Racing Commission
106 Dee Drive Suite 2
Charleston, W. Va
25311

1+1845

2

Mountaineer Park
Horsemen's Benevolent and Protective Association

OWNER DIRECTORS
Robert T. Bedner
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Executive Director

TRAINER DIRECTORS
John W. Baird
Loren G. Cox
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S. Matthew Kintz
Douglas E. Shunyfelt

HARC 28JUN'10 PM12:13

June 25, 2010

Joe Smith
Commissioner
West Virginia Racing Commission
106 Dee Drive
Charleston, WV 25329

RE: Public Comments on the Proposed Thoroughbred Rules of Racing

Dear Commissioner Smith:

As a member of the Thoroughbred Rule Making Committee and on behalf of the Mountaineer Park HBPA, thank you for the opportunity to be a part of the rule making committee. It is important that all stake holders had a voice in the revision of rules that were outdated, outmoded, and disorganized. The revision was a huge undertaking, and we appreciate the direction, dedication and diligence of Kelly Talbott as chairman for the group. We recognize and appreciate the Commission's actions as a commitment to helping the racing industry grow in West Virginia.

Throughout our meetings, consensus was usually reached after friendly discussion. There remain a few issues for which we never fully reached consensus. Since the committee's final meeting and the subsequent submission of the proposed rule to the Commissioners, and recognizing that now is the proper time for public comments, the Board of Directors has directed me to inform the Commission that pending introduction into the 2011 Legislative Session, the Mountaineer Park HBPA maintains the proposed medication rule continues to present issues.

In a separate attachment, I have enclosed each rule the HBPA opposes, what is at issue (position), and how the HBPA believes the rule should read (solution). Please contact me in the event there are questions regarding this presentation.

Thank you for your time and consideration in this matter.

Sincerely,

Maria A. Catignani
Executive Director

P.O. BOX 486, NEWELL, WV 26050 – TELEPHONE (304) 387-9772 – FAX (304) 387-1925

PUBLIC COMMENTS

Proposed 2011 West Virginia Rules of Racing

Mountaineer Park Horsemen's Benevolent and Protective Association

June 25, 2010

The Mountaineer Park HBPA maintains that certain proposed rules present issues that need to be addressed. This document specifies each rule the HBPA opposes, our position, and the HBPA solution to the issue.

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TOPICS

1. §178-1-43. Weights.-The Rule

43.3. Scale of Weights. The following provisions apply to the scale of weights:

43.3. A. With the exception of apprentices, no jockey shall be assigned a weight of less than one hundred eighteen (118) pounds.

Our position

As recently as the 4/25/10 proposed revision, the rule read:

43.3. a. With the exception of apprentice and sex allowances, no jockey shall be assigned a weight of less than one hundred sixteen (116) pounds.

It appears that three words were omitted from this proposed rule. In the course of discussion, we agreed there should be both an apprentice and sex allowance. The proposed rule 29.2 gives apprentice riders the allowance, and proposed rule 43.1. permits the sex allowance. However, the weight rule only addresses the allowance for apprentices, while the sex allowance is not reflected. After much discussion, we jumped from no minimum weight to 116 pounds in consideration for the safety and well being of the jockeys.

The horsemen are concerned regarding horses unaccustomed to carrying all that extra weight. As younger horses and fillies are developed, many need the sex allowance (hence less weight) in order to race more competitively against male horses. While there is no statistical evidence that proves carrying more weight causes injury, one only needs to think back to basic physics and the formula "Force = Mass x Acceleration" to be reminded that developing bones and muscles are exposed to greater stress per square inch with the addition of more weight.

Our solution

Institute the rule as it was in the 4/25/2010 version of the proposed rule

*43.3.a. With the exception of apprentice **and sex allowances**, no jockey shall be assigned a weight of less than **one hundred sixteen (116) pounds.***

2. §178 -1-50. Medications and Prohibited Substances- The Rule

50.2. Uniform Classification Guidelines. The following outline describes the types of substances placed in each category of the Uniform Classification Guidelines of Foreign Substances as promulgated by the Association of Racing Commissioners International (RCI) (revised January 2010), set forth in table 178-1 D at the end of this rule. The Guidelines shall be publicly posted in the offices of the Racing Commission veterinarian(s) and the association's racing secretary.

50.2.a. Class 1. Opiates, opium derivatives, synthetic opioids, psychoactive drugs, amphetamines and United States Drug Enforcement Agency (DEA) scheduled I and II drugs. Also found in this class are drugs which are potent stimulants of the nervous system. Drugs in this class have no generally accepted medical use in the racehorse and their pharmacological potential for altering the performance of a race is very high.

50.2.b. Class 2. Drugs in this category have a high potential for affecting the outcome of a race. Most are not generally accepted as therapeutic agents in the racehorse. Many are products intended to alter consciousness or the psychic state of humans, and have no approved or indicated use in the horse. Some, such as injectable local anesthetics, have legitimate use in equine medicine, but should not be found in a racehorse. The following groups of drugs are in this class:

50.2.b.1. Opiate partial agonists, or agonist-antagonists;

50.2.b.2. Non-opiate psychotropic drugs, which may have stimulant, depressant, analgesic or neuroleptic effects;

50.2.b.3. Miscellaneous drugs which might have a stimulant effect on the central nervous system (CNS);

50.2.b.4. Drugs with prominent CNS depressant action;

50.2.b.5. Antidepressant and antipsychotic drugs, with or without prominent CNS stimulatory or depressant effects

50.2.b.6. Muscle blocking drugs which have a direct neuromuscular blocking action;

50.2.b.7. Local anesthetics which have a reasonable potential for use as nerve blocking agents (except procaine); and

50.2.b.8. Snake venoms and other biologic substances, which may be used as nerve blocking agents.

50.2.c. Class 3. Drugs in this class may or may not have an accepted therapeutic use in the horse. Many are drugs that affect the cardiovascular, pulmonary and autonomic nervous systems. They all have the potential of affecting the performance of a racehorse. The following groups of drugs are in this class:

50.2.c.1. Drugs affecting the autonomic nervous system which do not have prominent CNS effects, but which do have prominent cardiovascular or respiratory system effects (bronchodilators are included in this class);

50.2.c.2. A local anesthetic which has nerve blocking potential but also has a high potential for producing urine residue levels from a method of use not related to the anesthetic effect of the drug (procaine);

50.2.c.3. Miscellaneous drugs with mild sedative action, such as the sleep inducing antihistamines;

50.2.c.4. Primary vasodilating/hypotensive agents; and

50.2.c.5. Potent diuretics affecting renal function and body fluid composition.

50.2.d. Class 4. This category is comprised primarily of therapeutic medications routinely used in racehorses. These may influence performance, but generally have a more limited ability to do so. Groups of drugs assigned to this category include the following:

50.2.d.1. Non-opiate drugs which have a mild central analgesic effect;

50.2.d.2. Drugs affecting the autonomic nervous system which do not have prominent CNS, cardiovascular or respiratory effects;

50.2.d.3. Drugs used solely as topical vasoconstrictors or decongestants;

50.2.d.4. Drugs used as gastrointestinal antispasmodics;

50.2.d.5. Drugs used to void the urinary bladder;

50.2.d.6. Drugs with a major effect on CNS vasculature or smooth muscle of visceral organs;

50.2.d.7. Antihistamines which do not have a significant CNS depressant effect (This does not include H1 blocking agents which are listed in Class 5);

50.2.d.8. Mineralocorticoid drugs;

50.2.d.9. Skeletal muscle relaxants;

50.2.d.10. Anti-inflammatory drugs--those that may reduce pain as a consequence of their anti-inflammatory actions, which include:

50.2.d.10.A. Non-Steroidal Anti-Inflammatory Drugs (NSAIDs);

50.2.d.10.B. Corticosteroids (glucocorticoids); and

50.2.d.10.C. Miscellaneous anti-inflammatory agents.

50.2.d.11. Anabolic and/or androgenic steroids and other drugs;

50.2.d.12. Less potent diuretics;

50.2.d.13. Cardiac glycosides and antiarrhythmics including:

50.2.d.13.A. Cardiac glycosides;

50.2.d.13.B. Antirryhthmic agents (exclusive of lidocaine, bretylium and propanolol); and

50.2.d.13.C. Miscellaneous cardiotonic drugs.

50.2.d.14. Topical Anesthetics--agents not available in injectable formulations;

50.2.d.15. Antidiarrheal agents; and

50.2.d.16. Miscellaneous drugs including:

50.2.d.16.A. Expectorants with little or no other pharmacologic action;

50.2.d.16.B. Stomachics; and

50.2.d.16.C. Mucolytic agents.

50.2.e. Class 5. Drugs in this category are therapeutic medications for which concentration limits have been established as well as certain miscellaneous agents. Included specifically are agents, which have very localized action only, such as anti-ulcer drugs and certain anti-allergenic drugs. The anticoagulant drugs are also included.

Our position:

The rule is incomplete. It is clear after committee discussion with Mr. Joe Strug of Dalare Labs (our state lab), and input from Kent Stirling, a member of the Racing Medication and Testing Consortium (RMTC) that currently West Virginia does not have a zero tolerance policy. We ARE NOT advocating for zero tolerance. To suggest that we go to a zero tolerance policy could choke the horse racing industry. We ARE advocating for threshold levels and withdrawal times as recognized by the American Association Equine Practitioners (AAEP) and the RMTC which advises the Association of Racing Commissioners International (ARCI) on medication. The HBPA agrees to the Uniform Classification Guidelines for Foreign Substances as listed in the appendix to the rules.

Mr. Strug informed us that in instances where there are traces of a substance during routine testing, he may at times choose not to report a trace finding; and/or if the trace level is reported to the Stewards, the Stewards may or may not choose to call a positive. We are not advocating for legalization of class 1 or 2 substances particularly because of the performance enhancement perception, but we do believe that there are reasonable levels of therapeutic substances (class 4 and 5) that may still be in a horse's system near race time, and these levels which may be elevated, are not performance enhancing. The metabolic breakdown of a substance happens at different rates in different bodies, and therefore, differing levels of a substance may still be found in a horse's system. Therefore, the request for a threshold level, with withdrawal times is reasonable and necessary.

This topic complex, hence the reason the ARCI is finding it so difficult to reach consensus itself. Several individual state racing commissions have chosen to set acceptable threshold levels based upon AAEP and RMTC levels for therapeutic substances that are recognized as routine and necessary. (See appendix I).

Thresholds listed in this comment are based on scientific research adopted by the RMTC, ARCI and/or one or more racing organization or jurisdiction. We are suggesting that the WV Racing Commission adopt levels in line with the aforementioned organizations.

Our solution:

The issue here is twofold.

1. **We need a current rule for thresholds and withdrawal times.**

   In order to address this issue, we propose the Commission recognize the thresholds/regulatory limits and withdrawal times that have been established in certain racing jurisdictions. The list supplied demonstrates the jurisdictions accepting these thresholds as of July 2008. **The concentration in bold face and italicized is the threshold level that we recommend for West Virginia.** See Appendix I.

   In addition, we submit the AAEP Therapeutic Medications List 2007 and submit Appendix II as recommendation for withdrawal times.

2. **Recognizing that testing and technology regarding medications is constantly changing, we must have the ability to update thresholds and withdrawal times as information is available.**

   We suggest as is in the rule, that absent a threshold, a substance is considered a class 1 or 2 until a threshold is established. Once a threshold is established, we submit one of two things can be done:

   1.) A threshold is established incorporated by the Commission once the RMTC and AAEP agree upon an established level and withdrawal times

   Or

   2.) Establish a standing WVRC Rules of Racing Committee that will periodically review medications and submit a recommendation/request to amend WV legislation once the RMTC and AAEP agree upon an established level and withdrawal times.

3. §178-1-50.13. Out of Competition Testing for Blood and/or Gene Doping Agents- The Rule

50.13. Out of Competition Testing for Blood and/or Gene Doping Agents. The following provisions apply to out of competition testing for blood and/or gene doping agents:

50.13.a. Any horse on the grounds at a racetrack under the jurisdiction of the Racing Commission; or under the care or control of trainer or owner holding an occupational permit issued by the Racing Commission is subject to testing for blood and/or gene doping agents without advance notice. This rule does not apply to therapeutic medications approved by the FDA for use in the horse; the recognized off-label use of any FDA approved medication; and, biological products routinely used in veterinary or medical practice such as vaccines, plasma, and hormones and related substances.

50.13.b. Horses to be tested may be selected at random, with probable cause, or as determined by the Racing Commission or the stewards.

50.13.c. A Racing Commission veterinarian, or any practicing veterinarian holding an occupational permit or a licensed veterinary technician authorized by the Racing Commission, may at any time, take a urine, blood or hair sample from a horse for this purpose.

50.13.d. Prohibited substances, practices and procedures are defined as:

50.13.d.1. Blood doping agents including, but not limited to Erthropoietin (EPO), Darbepoetin, Oxyglobin, Hempure, Aransep or any substance that abnormally enhances the oxygenation of body tissues.

50.13.d.1. Gene doping agents or the non-therapeutic use of genes, genetic elements, and/or cells that have the capacity to enhance athletic performance or produce analgesia.

50.13.e. Cooperation with the Racing Commission veterinarian, or any practicing veterinarian or licensed veterinary technician authorized by the Racing Commission, includes:

50.13.e.1. Assisting in the immediate location and identification of the horse selected for out of competition testing;

50.13.e.2. Providing a stall or safe location to collect the samples;

50.13.e.3. Assisting the veterinarian in properly procuring the samples;

50.13.e.4. Split samples will be collected as set forth in this rule.

50.13.f. Out of competition samples will be sent to the official laboratory of the Racing Commission, or other laboratory as designated by the Commission with reports made in accordance with the provisions of these medication rules and the penalty provisions thereof.

Our position:

It is acknowledged that these substances are illegal, but an owner or trainer who has recently purchased a horse doesn't know what a previous owner or trainer has used to treat the horse prior to the purchase. In addition, some of these horses that have been treated may never run again due to the nature of their illness/injury. Different substances stay in a horse's bloodstream for varying times. The new owner/trainer may be punished for something for which they had no knowledge.

In addition, if this testing is at the request of the Commission or the racetrack, we believe the Commission or racetrack should be responsible for the fees associated with the testing.

Our solution:

Assess the cost of testing to the Commission or racetrack, or eliminate the entire "out of competition" rule.

4. §178-1-53. Physical Inspection of Horses- The Rule

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

53.2. Racing Soundness Examinations.

53.2.d. The owner of the deceased thoroughbred shall make payment of charges due the practicing veterinarian employed by him to conduct the examination. The services of the Racing Commission veterinarian and the laboratory testing shall be made available by the Racing Commission without charge to the owner.

Our position:

The rule states that the Stewards may order an examination. The owner has already suffered loss in that the animal has expired. The owner may or may not care to know the cause of death of the animal, and therefore should not be expected to incur the cost of a post mortem exam, especially since the Stewards requested the examination.

We don't believe any other jurisdiction requests a necropsy then charges the owner. If the owner requested it, only then should the only be assessed the cost.

Our solution:

53.2.d. ~~The owner of the deceased thoroughbred~~ ***The West Virginia Racing Commission*** shall make payment of charges due the practicing veterinarian employed by him to conduct the examination. The services of the Racing Commission veterinarian and the laboratory testing shall be made available by the Racing Commission without charge to the owner. **If the track or Racing Commission want to examine a horse, the owner or a veterinarian chosen by the owner, must be permitted to observe the inspection, unless the owner waive his right to inspection.**

5. Toe Grabs-Request to add a rule

Our position

Currently, there is no WV Rule of Racing that addresses toe grabs. Until 2008, Mountaineer Park had no restriction on toe grabs on the dirt track. At that time, the American Graded Stakes Committee stated that in order to participate in their program tracks must institute a rule limiting toe grabs to 2mm. Hence, ARCI changed its model rule to mirror what the American Graded Stakes Committee required.

Current ARCI Model Rule Reads:

ARCI-010-030 Horses Ineligible

A horse is ineligible to start in a race when:

(27) If a thoroughbred, it has shoes (racing plates) which have toe grabs with a height greater than two millimeters (0.07874 inches), bends, jars, caulks, stickers or any other *traction device on the front hooves while racing or training on all racing surface.*

***Version 4.2 to* 4.3 ARCI Board 8/2/08: Revised Toe Grab language**

Because Mountaineer Park has one graded stake race (WV Derby) per year, management issued a house rule that states:

"all horses training or racing at Mountaineer Casino Racetrack & Resort will not be permitted to use toe grabs in excess of two (2) millimeters in height on front hooves."

Due to an increased number of problems at the starting gate with horses being unable to get a good hold on the track, the American Graded Stakes has since rescinded that requirement. The current Criteria for Consideration for Grading as listed on their website, www.toba.org is included in Appendix V. This information was verified with Andrew Schweigardt, Director of Industry Relations and Development of the Thoroughbred Owners and Breeders Association (TOBA). He is also Secretary of the American Graded Stakes Committee, and Alternate Director of the RMTC. Verification of this information may be made by calling TOBA or accessing their website.

Appendix VI and VII are articles as reported on Bloodhorse.com that indicate the justification to continue to allow 4 mm toe grabs on the dirt track.

Our solution

Add a rule that reads:

A horse is ineligible to start in a race when:

If a thoroughbred, it has shoes (racing plates) which have toe grabs with a height greater than four millimeters (0.07874 inches), bends, jars, caulks, stickers or any other traction device on the front hooves while racing or training on the dirt track.

In the event there is concern that the American Graded Stakes will reissue this rule, we could adopt the following language, as is listed in rule proposed WV Rule 50.14 American Graded Stakes Races...

American Graded Stakes Races. For any race in this state that has been issued a grade by the American Graded Stakes Committee, the toe grab rule established by the American Graded Stakes Committee shall be followed. The association shall notify the Racing Commission and the stewards upon the issuance of a grade for a race by the American Graded Stakes Committee to ensure that the toe grab rule is administered and enforced. A copy of the toe grab rule shall be published in the office of the association's racing secretary.

Appendix I

RMTC Therapeutic Medications
Routinely Used and Identified as Necessary
by the Veterinary Advisory Committee

This table is reproduced courtesy of Dr. Scot Waterman and the Racing Medication and Testing Consortium. For each of these therapeutic medications, the RMTC is developing appropriate regulatory thresholds in plasma or urine and also associated withdrawal time guidelines [Communicated January 2008].

First Priority Group (Currently in Research)	**Fourth Priority Group**
1. Acepromazine	25. Atropine
2. Butorphanol	26. Beclomethasone
3. Detomidine	27. Buscopan
4. Glycopyrrolate	28. Cromolyn
5. Lidocaine	29. Isoxsuprine
6. Mepivacaine	30. Pentoxyfylline
7. Methocarbamol	31. Phenytoin
8. Pyrilamine	32. Prednisolone
Second Priority Group	**Fifth Priority Group**
9. Boldenone	33. Diazepam
10. Stanozolol	34. Dipyrone
11. Testosterone	35. Fluorprednisolone
12. Dantrolene	36. Guaifenesin
13. Dexamethasone	37. Isoflupredone
14. Fluphenazine	
15. Hydroxyzine	**Research Already Under Way**
16. Nandrolone	39. Aminocaproic Acid
	40. Carbazochrome
Third Priority Group	41. Clenbuterol
17. Albuterol	
18. Betamethasone	**Already in Body of Model Rules**
19. Diclofenac	42. Procaine Penicillin
20. Methylprednisolone	43. Cimetidine
21. Reserpine	44. DMSO
22. Triamcinolone	45. Flunixin
23. Trichlormethiazide	46. Furosemide
24. Xylazine	47. Ketoprofen
	48. Omeprazole
	49. Phenylbutazone

APPENDIX II MEDICATION THRESHHOLD***					
	MEDICATION	CONCENTRATION	FLUID	JURISDICTION	REF #
1	***Acepromazine***	***10 ng/ml***	***urine***	***Ohio***	***1***
	Acepromazine	25 ng/ml	urine	California	2
	Acepromazine	25 ng/ml	urine	Washington	3
	Acepromazine	25 ng/ml	urine	New Mexico	4
	Acepromazine	25 ng/ml	urine	Louisiana	8
2	***Albuterol***	***1 ng/ml***	***plasma***	***Louisiana***	***8***
	Albuterol	1 ng/ml	plasma	Oklahoma	41
	Albuterol	1 ng/ml	urine	California	2
	Albuterol	1 ng/ml	urine	New Mexico	4
	Albuterol	1 ng/ml	urine	Washington	3
	Albuterol	***5 ng/ml***	***urine***	***Louisiana***	***8***
3	Arsenic	200 ng/ml	urine	Texas	5
	Arsenic	***300 ng/ml***	***urine***	***International***	***6***
4	Atropine	10 ng/ml	urine	California	2
	Atropine	10 ng/ml	urine	New Mexico	4
	Atropine	70 ng/ml	urine	Oklahoma	41
	Atropine	***75 ng/ml***	***urine***	***Louisiana***	***8***
5	***Benzocaine***	***50 ng/ml***	***urine***	***California***	***2***
	Benzocaine	50 ng/ml	urine	Washington	3
	Benzocaine	50 ng/ml	urine	New Mexico	4
6	Benzoylecgonine (BZE)	50 ng/ml	urine	unattributed	7
	Benzoylecgonine (BZE)	50 ng/ml	urine	Washington	40
	Benzoylecgonine (BZE)	100 ng/ml	urine	Florida	3
	Benzoylecgonine (BZE)	150 ng/ml	urine	Illinois	14
	Benzoylecgonine (BZE)	***150 ng/ml***	***urine***	***Ohio***	***1***
	Benzoylecgonine (BZE)	150 ng/ml	urine	Louisiana	8
	Benzoylecgonine (BZE)	150 ng/ml	urine	Oklahoma	41
	Benzoylecgonine (BZE)	***<1ng/ml***	***plasma***	***Louisiana***	***8***
7	***Betamethasone***	***60 ng/ml***	***urine***	***Ohio***	***1***
8	***Boldenone***	***15 ng/ml (intact males only)***	***urine***	***ARCI***	***39***

	Boldenone	***< 200 pg/ml***	***plasma***	***Pennsylvania (interim)***	***12***
	Boldenone	15 ng/ml (intact males only)	urine	Delaware	31
	Boldenone	15 ng/ml (intact males only)	urine	International	6
	Boldenone	15 ng/ml (intact males only)	urine	California	2
	Boldenone	15 ng/ml (intact males only)	urine	Indiana	
	Boldenone	15 ng/ml (intact males only)	urine	Virginia	30
9	***Bupivacaine***	***5 ng/ml***	***urine***	***Ohio***	***1***
	Bupivacaine	5 ng/ml	urine	Washington	3
10	***Butorphanol***	***10 ng/ml***	***urine***	***Ohio***	***1***
11	***Caffeine***	***250 ng/ml***	***serum***	***Canada***	***9***
	Caffeine	1,000 ng/ml	urine	Canada	9
	Caffeine	10 ng/ml	plasma	Hong Kong	10
	Caffeine	10 ng/ml	plasma	Jockey Club of Brasileiro	11
	Caffeine	30 ng/ml	urine	Hong Kong	10
	Caffeine	100 ng/ml	urine	Oklahoma	41
	Caffeine	***100 ng/ml***	***urine***	***Ohio***	***1***
	Caffeine	100 ng/ml	urine	Louisiana	8
	Caffeine	200 ng/ml	urine	Florida	33
	Caffeine	25 ng/ml	plasma	Louisiana	8
	Caffeine	100 ng/ml	plasma	Washington	3
	Caffeine	100 ng/ml	plasma	Oregon	22
	Caffeine	***100 ng/ml***	***plasma***	***Maryland***	***23***
	Caffeine	100 ng/ml	plasma	Nebraska	24
12	Carbon Dioxide	36 millimoles/L	plasma	International	6
		37 millimoles/L	***plasma/serum***	***US***	
13	***Clenbuterol***	***0.5 ng/ml***	***plasma***	***Louisiana***	***8***
	Clenbuterol	15 ng/ml	urine	Louisiana	8
	Clenbuterol	1 ng/ml	plasma	Oklahoma	41
	Clenbuterol	***1 ng/ml***	***urine***	***Ohio (1999)***	***1***
	Clenbuterol	25 pg/ml	plasma	Kentucky	21
	Clenbuterol	25 pg/ml	plasma	Washington	3

	Clenbuterol	25 pg/ml	plasma	California	2
	Clenbuterol	5 ng/ml	urine	California	2
	Clenbuterol	5 ng/ml	urine	New Mexico	4
14	***Dantrolene***	***100 ng/ml***	***plasma***	***Ohio (1999)***	***1***
	Dantrolene	100 ng/ml	plasma	Oklahoma	41
15	***Dexamethasone***	***60 ng/ml***	***urine***	***Ohio (1999)***	***1***
	Dexamethasone	100 ng/ml	urine	Louisiana	8
	Dexamethasone	***3 ng/ml***	***plasma***	***USEF***	***15***
16	***Diclofenac***	***5 ng/ml***	***plasma***	***Kentucky***	***21***
	Diclofenac	5 ng/ml	plasma	Oklahoma	41
	Diclofenac	5 ng/ml	plasma	USEF	15
17	Dimethylsulfoxide	500,000 ng/ml	urine	Illinois	14
	Dimethylsulfoxide	***10,000 ng/ml***	***urine***	***Ohio (1999)***	***1***
	Dimethylsulfoxide	***10,000 ng/ml***	***plasma***	***Kentucky***	***21***
	Dimethylsulfoxide	10,000 ng/ml	plasma	Oregon	22
	Dimethylsulfoxide	15,000 ng/ml	urine	International	6
	Dimethylsulfoxide	1,000 ng/ml	plasma	International	6
	Dimethylsulfoxide	1,000 ng/ml	plasma	Oklahoma	41
18	***Dipyrone***	***1,000 ng/ml***	***plasma***	***Oklahoma***	***41***
	Dipyrone	1,000 ng/ml	plasma	Jockey Club of Brasileiro	11
19	***Eltenac***	***100 ng/ml***	***plasma***	***USEF***	***15***
20	***Firocoxib***	***240 ng/ml***	***plasma***	***USEF***	***15***
21	***Flumethasone***	***10 ng/ml***	***urine***	***Ohio (1999)***	***1***
22	***Flunixin***	***20 ng/ml***	***plasma***	***RMTC National (2007)***	***10***
	Flunixin	1,000 ng/ml	plasma	USEF	15
	Flunixin	1,000 ng/ml	plasma	Idaho	13
	Flunixin	1,000 ng/ml	plasma	New Mexico	4
	Flunixin	500 ng/ml	plasma	Colorado	25
	Flunixin	250 ng/ml	plasma	Oklahoma	41
	Flunixin	50 ng/ml	plasma	California	2,2a

	Flunixin	50 ng/ml	plasma	Louisiana	8
	Flunixin	25 ng/ml	plasma	Oregon	22
	Flunixin	20 ng/ml	plasma	Arkansas	26
	Flunixin	20 ng/ml	plasma	Illinois	14
	Flunixin	20 ng/ml	plasma	Indiana	43
	Flunixin	20 ng/ml	plasma	Kansas	27
	Flunixin	20 ng/ml	plasma	Ohio (2009)	
	Flunixin	20 ng/ml	plasma	Washington	3
	Flunixin	20 ng/ml	plasma	Kentucky	21
	Flunixin	20 ng/ml	plasma	Minnesota	28
	Flunixin	20 ng/ml	plasma	Maryland	23
	Flunixin	20 ng/ml	plasma	Iowa	29
	Flunixin	20 ng/ml	plasma	Virginia	30
	Flunixin	10 ng/ml	plasma	Pennsylvania	12
	Flunixin	40 ng/ml	plasma	Sweden	
	[Flunixin Subthreshold]	2 ng/ml	plasma	Louisiana	8
23	***Furosemide***	***100 ng/ml***	***plasma***	***RMTC National (2007)***	***10***
	Furosemide	80 ng/ml	plasma	Idaho	13
	Furosemide	50 ng/ml	plasma	Oklahoma	41
	Furosemide	100 ng/ml	plasma	Others	
	Furosemide	100 ng/ml	plasma	Jockey Club of Brasileiro	11
	Furosemide	100 ng/ml	plasma	Illinois	14
	Furosemide	100 ng/ml	plasma	Indiana	43
	Furosemide	100 ng/ml	plasma	Texas	5
	Furosemide	100 ng/ml	plasma	Oregon	22
	Furosemide	100 ng/ml	plasma	California	2
	Furosemide	100 ng/ml	plasma	Kentucky	21
	Furosemide	100 ng/ml	plasma	Minnesota	28
	Furosemide	100 ng/ml	plasma	Delaware	31
	Furosemide	100 ng/ml	plasma	Maryland	23
	Furosemide	100 ng/ml	plasma	Washington	3
	Furosemide	100 ng/ml	plasma	Arkansas	26
	Furosemide	100 ng/ml	plasma	Kansas	27
24	***Glycopyrrolate***	***5 ng/ml***	***urine***	***Ohio***	***1***
25	***Hydrocortisone***	***1,000 ng/ml***	***urine***	***Ohio***	***1***
	Hydrocortisone	1,000 ng/ml	urine	International	6

26	*Ibuprofen*	*100 ng/ml*	*serum*	*Kentucky*	*21*
27	*Imipramine*	*20 ng/ml*	*plasma*	*Jockey Club of Brasileiro*	*11*
28	*Indomethacin*	*50 ng/ml*	*plasma*	*Jockey Club of Brasileiro*	*11*
29	*Isoflupredone*	*60 ng/ml*	*urine*	*Ohio (1999)*	*1*
30	Isoxsuprine	1,000 ng/ml	urine	Illinois	14
	Isoxsuprine	*1,000 ng/ml*	*urine*	*Ohio (1999)*	*1*
31	*Ketoprofen*	*10 ng/ml*	*plasma*	*RMTC National (2007)*	*10*
	Ketoprofen	250 ng/ml	plasma	USEF	15
	Ketoprofen	100 ng/ml	plasma	Oklahoma	41
	Ketoprofen	10 ng/ml	plasma	Ohio	
	Ketoprofen	50 ng/ml	plasma	New Mexico	4
	Ketoprofen	10 ng/ml	plasma	California	2
	Ketoprofen	10 ng/ml	plasma	Arkansas	29
	Ketoprofen	10 ng/ml	plasma	Illinois	14
	Ketoprofen	10 ng/ml	plasma	Indiana	43
	Ketoprofen	10 ng/ml	plasma	Kansas	27
	Ketoprofen	10 ng/ml	plasma	Louisiana	8
	Ketoprofen	10 ng/ml	plasma	Washington	6
	Ketoprofen	10 ng/ml	plasma	Oregon	22
	Ketoprofen	10 ng/ml	plasma	Kentucky	21
	Ketoprofen	10 ng/ml	plasma	Minnesota	28
	Ketoprofen	10 ng/ml	plasma	Colorado	25
	Ketoprofen	10 ng/ml	plasma	Iowa	29
	Ketoprofen Subthreshold]	0.5 ng/ml	plasma	Louisiana	8
32	Lidocaine	25 ng/ml	plasma	Jockey Club of Brasileiro	11
	Lidocaine	*<1 ng/ml*	*plasma*	*Louisiana*	*8*
	Lidocaine	*50 ng/ml*	*urine*	*Ohio (1999)*	*1*
	Lidocaine	50 ng/ml	urine	Washington	3
	Lidocaine	25 ng/ml	urine	Louisiana	8
	Lidocaine	25 ng/ml	urine	Oklahoma	41

33	***Meclofenamic Acid***	***1,000 ng/ml***	***plasma***	***Ohio (1999)***	***1***
	Meclofenamic Acid	1,000 ng/ml	plasma	Kentucky	21
	Meclofenamic Acid	1,000 ng/ml	plasma	New Mexico	4
	Meclofenamic Acid	2,500 ng/ml	plasma	USEF	15
	Meclofenamic Acid	1,000 ng/ml	plasma	Idaho	13
34	***Mephenesin***	***200 ng/ml***	***plasma***	***Jockey Club of Brasileiro***	***11***
35	***Mepivacaine***	***5 ng/ml***	***urine***	***Ohio (1999)***	***1***
	Mepivacaine	10 ng/ml	urine	California	2
	Mepivacaine	10 ng/ml	urine	Washington	3
	Mepivacaine	10 ng/ml	urine	New Mexico	4
	Mepivacaine	25 ng/ml	urine	Louisiana	8
36	***Methocarbamol***	***1,000 ng/ml***	***plasma***	***Ohio (1999)***	***1***
	Methocarbamol	1,000 ng/ml	plasma	Oklahoma	41
	Methocarbamol	4,000 ng/ml	plamsa	USEF	15
37	***Methoxytyramine***	***4,000 ng/ml***	***urine***	***International***	***6***
38	***Methylprednisolone***	***1,000 ng/ml***	***urine***	***Ohio (1999)***	***1***
39	Morphine	120 ng/ml	urine	Louisiana	8
	Morphine	100 ng/ml	urine	Oklahoma	41
	Morphine	50 ng/ml	urine	England, Webbon	16
	Morphine	***50 ng/ml***	***urine***	***Ohio (1999)***	***1***
	Morphine	50 ng/ml	urine	Washington	3
	Morphine	***<1 ng/ml***	***plasma***	***Louisiana***	***8***
40	Naproxen	40,000 ng/ml	plasma	USEF	15
	Naproxen	***10,000 ng/ml***	***plasma***	***Ohio***	***1***
	Naproxen	5,000 ng/ml	plasma	Idaho	13
	Naproxen	750 ng/ml	plasma	Oklahoma	41
41	Nandrolone	1 ng/ml (geldings, fillies, mares)	urine	Indiana	43
	Nandrolone	1 ng/ml (geldings, fillies, mares)	urine	Virginia	30
	Nandrolone	***1 ng/ml (geldings,***	***urine***	***ARCI***	***39***

		fillies, mares)			
	Nandrolone	1 ng/ml (geldings, fillies, mares)	urine	Delaware	31
	Nandrolone	1 ng/ml (geldings, fillies, mares)	urine	California	2
	Nandrolone	***45 ng/ml (intact males only)***	***urine***	***ARCI***	***39***
	Nandrolone	45 ng/ml (intact males only)	urine	Indiana	43
	Nandrolone	45 ng/ml (intact males only)	urine	Virginia	30
	Nandrolone	45 ng/ml	urine	Washington	42
	Nandrolone	45 ng/ml (intact males only)	urine	California	2
	Nandrolone	***<200 pg/ml***	***plasma***	***Pennsylvania (interim)***	***12***
42	Oxyphenbutazone	5,000 ng/ml	plasma	North America, ARCI	17,39
	Oxyphenbutazone	5,000 ng/ml	plasma	Arizona	32
	Oxyphenbutazone	5,000 ng/ml	plasma	Arkansas	26
	Oxyphenbutazone	5,000 ng/ml	plasma	Florida	33
	Oxyphenbutazone	5,000 ng/ml	plasma	Kansas	27
	Oxyphenbutazone	5,000 ng/ml	plasma	Illinois	14
	Oxyphenbutazone	***5,000 ng/ml***	***plasma***	***Ohio (1999)***	***1***
	Oxyphenbutazone	5,000 ng/ml	plasma	Louisiana	8
	Oxyphenbutazone	5,000 ng/ml	plasma	Montana	34
	Oxyphenbutazone	5,000 ng/ml	plasma	Idaho	13
	Oxyphenbutazone	5,000 ng/ml	plasma	New Mexico	4
	Oxyphenbutazone	5,000 ng/ml	plasma	Colorado	25
	Oxyphenbutazone	5,000 ng/ml	plasma	Iowa	29
	Oxyphenbutazone	5,000 ng/ml	plasma	West Virginia	35
	Oxyphenbutazone	5,000 ng/ml	plasma	Michigan	36
	Oxyphenbutazone	2,000 ng/ml	plasma	Delaware	31
	Oxyphenbutazone	2,000 ng/ml	plasma	Pennsylvania	12
	Oxyphenbutazone	165,000 ng/ml	urine	Louisiana	8
	Oxyphenbutazone	165,000 ng/ml	urine	Montana	34
	Oxyphenbutazone	***165,000 ng/ml***	***urine***	***West Virginia***	***35***
43	***Pentazocine***	***50 ng/ml***	***urine***	***Ohio (1999)***	***1***
44	Phenylbutazone	5,000 ng/ml	plasma	North America, ARCI	17, 39

	Phenylbutazone	700 ng/ml	plasma	Jockey Club of Brasileiro	11
	Phenylbutazone	2,000 ng/ml	plasma	Pennsylvania	12
	Phenylbutazone	2,000 ng/ml	plasma	Maryland	23
	Phenylbutazone	2,500 ng/ml	plasma	Delaware	31
	Phenylbutazone	5,000 ng/ml	plasma	Arizona	32
	Phenylbutazone	5,000 ng/ml	plasma	Arkansas	26
	Phenylbutazone	5,000 ng/ml	plasma	Illinois	14
	Phenylbutazone	5,000 ng/ml	plasma	Indiana	43
	Phenylbutazone	5,000 ng/ml	plasma	Kansas	27
	Phenylbutazone	5,000 ng/ml	plasma	Florida	33
	Phenylbutazone	5,000 ng/ml	plasma	Louisiana	8
	Phenylbutazone	5,000 ng/ml	plasma	Texas	5
	Phenylbutazone	5,000 ng/ml	plasma	California	2
	Phenylbutazone	5,000 ng/ml	plasma	New Mexico	4
	Phenylbutazone	5,000 ng/ml	plasma	Idaho	13
	Phenylbutazone	5,000 ng/ml	plasma	Washington	3
	Phenylbutazone	5,000 ng/ml	plasma	Oregon	22
	Phenylbutazone	5,000 ng/ml	plasma	Michigan	36
	Phenylbutazone	5,000 ng/ml	plasma	Iowa	29
	Phenylbutazone	5,000 ng/ml	plasma	Colorado	25
	Phenylbutazone	5,000 ng/ml	plasma	Kentucky	21
	Phenylbutazone	5,000 ng/ml	plasma	Minnesota	28
	Phenylbutazone	5,000 ng/ml	plasma	Montana	34
	Phenylbutazone	5,000 ng/ml	plasma	Oklahoma	41
	Phenylbutazone	5,000 ng/ml	plasma	Virginia	30
	Phenylbutazone	***5,000 ng/ml***	***plasma***	***West Virginia***	***35***
	Phenylbutazone	5,000 ng/ml	plasma	Wyoming	37
	Phenylbutazone	15,000 ng/ml	plasma	USEF	15
	Phenylbutazone	165,000 ng/ml	urine	Louisiana	8
	Phenylbutazone	165,000 ng/ml	urine	Idaho	13
	Phenylbutazone	165,000 ng/ml	urine	Massachusetts	38
	Phenylbutazone	165,000 ng/ml	urine	Montana	34
	Phenylbutazone	***165,000 ng/ml***	***urine***	***West Virginia***	***35***
	[Phenylbutazone Subthreshold]	1,000 ng/ml	plasma	Louisiana	8
45	***Prednisolone***	***1,000 ng/ml***	***urine***	***Ohio (1999)***	***1***
46	***Prednisone***	***100 ng/ml***	***urine***	***Ohio (1999)***	1
47	Procaine	750 ng/ml	urine	Hong Kong	18

	Procaine	***5 ng/ml***	***plasma***	***Louisiana***	***8***
	Procaine	25 ng/ml	plasma	Canada	9
	Procaine	25 ng/ml	plasma	Oklahoma	41
	Procaine	100 ng/ml	plasma	Jockey Club of Brasileiro	11
	Procaine	***50 ng/ml***	***urine***	***Ohio (1999)***	***1***
	Procaine	50 ng/ml	urine	Louisiana	8
	Procaine	10 ng/ml	urine	California	2
	Procaine)	25 ng/ml	urine	Washington	3
	Procaine	10 ng/ml	urine	New Mexico	4
48	***Promazine***	***20 ng/ml***	***plasma***	***Jockey Club of Brasileiro***	***11***
	Promazine	***50 ng/ml***	***urine***	***Ohio (1999)***	***1***
	Promazine	25 ng/ml	urine	California	2
	Promazine	25 ng/ml	urine	Washington	3
	Promazine	25 ng/ml	urine	New Mexico	4
49	Pyrilamine	5 ng/ml	plasma	Jockey Club of Brasileiro	11
	Pyrilamine	***50 ng/ml***	***plasma***	***Oklahoma***	***41***
	Pyrilamine	50 ng/ml	urine	Washington	3
	Pyrilamine	***50 ng/ml***	***urine***	***Ohio***	***1***
50	Salicylates	750,000 ng/ml	urine	California	2
	Salicylates	750,000 ng/ml	urine	Washington	3
	Salicylates	***750,000 ng/ml***	***urine***	***Ohio (1999)***	***1***
	Salicylates	750,000 ng/ml	urine	New Mexico	4
51	Salicylic Acid	750,000 ng/ml	urine	Ohio (1999)	1
	Salicylic Acid	750,000 ng/ml	urine	International	6
	Salicylic Acid	6,500 ng/ml	plasma	International	6
	Salicylic Acid	750,000 ng/ml	urine	Texas	5
	Salicylic Acid	*65,000 ng/ml*	*plasma*	*Oklahoma*	*41*
52	***Scopolamine***	***75 ng/ml***	***urine***	***Louisiana***	***8***
53	***Stanozolol***	***1 ng/ml***	***urine***	***ARCI***	***39***
	Stanozolol	1 ng/ml	urine	California	2
	Stanozolol	***< 200 pg/ml***	***plasma***	***Pennsylvania***	***12***
	Stanozolol	1 ng/ml	urine	Indiana	43
	Stanozolol	1 ng/ml	urine	Virginia	30

54	Strychnine	100 ng/ml	urine	Oklahoma	41
	Strychnine	***100 ng/ml***	***urine***	***Louisiana***	***8***
55	***Sulfa Drugs***	***1,000 ng/ml***	***urine***	***Oregon***	***22***
56	***Terbutaline***	***10 ng/ml***	***urine***	***Ohio (1999)***	***1***
57	***Testosterone***	***20 ng/ml (geldings)***	***urine***	***International, ARCI***	***6, 39***
	Testosterone	20 ng/ml (geldings)	urine	California	2
	Testosterone	20 ng/ml (geldings)	urine	Indiana	43
	Testosterone	20 ng/ml (geldings)	urine	Virginia	30
	Testosterone	***55 ng/ml (fillies and mares)***	***urine***	***International, ARCI***	***6, 39***
	Testosterone	55 ng/ml (fillies and mares)	urine	California	2
58	***Tetramisole***	***80/ng/ml***	***plasma***	***Jockey Club of Brasileiro***	***11***
59	***Theobromine***	***2000 ng/ml***	***urine***	***Ohio (1999)***	***1***
	Theobromine	2000 ng/ml	urine	USEF	6
	Theobromine	2000 ng/ml	urine	Texas	5
	Theobromine	2000 ng/ml	urine	Washington	3
	Theobromine	400 ng/ml	urine	Florida	33
60	***Theophylline***	***400 ng/ml***	***urine***	***Florida***	***33***

***NOTE: Reference number is the name and address of the jurisdiction authorizing the threshold. Reference list on page 25.

APPENDIX III WITHDRAWAL TIMES

MEDICATION	Class	Dosage	Route of Admin	Freq of Admin	Clinical use	Priority	Clinical Cut-off
ACEPROMAZINE	3	15 MG	IV	SID	TRANQUILIZER	H	48 HRS (72-24 hrs)
ACETYLSALICYLIC ACID (ASPIRIN)	4	60 GRAIN	PO	SID	NSAID ANTI-PLATELET	L	24 HRS
ALBUTEROL	3	6 PUFFS	INHALER (MDI)	BID	BRONCHODIALATOR	H	24 HRS
AMINOCAPROIC ACID	4	2500-5000 MG	IV	SID	ANTI-FIBRINOLYTIC (EIPH)	L	24 HRS
ATROPINE	3	9 MG	INTRA-SYNOVIAL	ONCE	CHRONIC SYNOVITIS	M	48 HRS
	3	OPTHALMIC OINTMENT	TOPICAL	SID	MYDRAISIS		48 HRS
BECLOMETHASONE	4	3-6 PUFFS	INHALER (MDI)	BID	STEROIDAL ANTI-INFLAMMATORY	L	24 HRS
BETAMETHASONE	4	6-30 MG	IA	ONCE	STEROIDAL ANTI-INFLAMMATORY	L	48 HRS
BOLDENONE	4	125-500 MG	IM	ONCE/2-3 WKS	ANABOLIC	L	48 HRS
BUTORPHANOL	3	2-10 MG	IV	ONCE	TRANQUILIZER	H	48 HRS
CIMETIDINE	5	8-20 MG/KG	PO	BID or TID	H_2 BLOCKER (GASTRIC ULCERS)	L	24 HRS
CLENBUTEROL	3	.08 MCG/KG	PO	BID	BRONCHODIALATOR	H	96 HRS*
CROMOLYN	5	20-40 MG	NEBULIZER (MDI)	SID	MAST CELL STABILIZER	L	24 HRS
DANTROLENE	4	300-500 MG	PO	SID	EXERTIONAL MYOSITIS	H	48 HRS
DETOMIDINE	3	2-10 MG	IV, IM	ONCE	TRANQUILIZER	H	48 HRS
DEXAMETHASONE	4	5-40 MG	IV, PO, IM	SID	STEROIDAL ANTI-INFLAMMATORY	M	24 HRS
DIAZAPAM	2	20-30 MG	IV	SID	TRANQUILIZER/SEDATIVE	L	72-120 HRS
DMSO	5	1 MG/KG	IV, PO	SID	ANTI-INFLAMMATORY	L	24 HRS
DIPYRONE	4	5-10 GM	IV	SID	ANTI-PYRETIC SPASMOLYTIC	L	72 HRS
FLUNIXIN	4	250-500 MG	IV	SID	NSAID	L	24 HRS
FLUPHENAZINE	2	10-30 MG	IM	ONCE/1-2 WKS	LONG ACTING TRANQUILIZER	H	7+ DAYS
FLUORO-PREDNISOLONE	4	2-20 MG	IA, IM	ONCE	STEROIDAL ANTI-INFLAMMATORY	L	48 HRS
GUAIFENESIN	4	DOSAGE VARIABLE ORAL PREPS	PO	SDI, BID	EXPECTORANT	L	48 HRS
HYDROXYZINE	2	250-500 MG	PO	BID	CHRONIC URTICARIA	H	72 HRS
IBUPROFEN	4	4-10 GM	PO	BID	NSAID	L	24 HRS
ISOFLUPREDONE	4	10-20 MG	IA, IM	ONCE	STEROIDAL ANTI-INFLAMMATORY	L	48 HRS
ISOXSUPRINE	4	200-400 MG	PO	BID	PERIPHERAL VASODIALATOR	L	48 HRS
KETOPROFEN	4	1000 MG	IV	SID	NSAID	L	24 HRS
LIDOCAINE	2	UP TO 200 MG	SQ	ONCE	LOCAL ANESTHETIC	H	48 HRS
MECLOFENAMIC ACID	4	500-1000 MG	PO	BID	NSAID	L	24 HRS
MEPIVACAINE	2	UP TO 500MG	SQ	ONCE	LOCAL ANESTHETIC	H	48 HRS
METHOCARBAMOL	4	2-5 GMS	IV	SID, BID	CENTRALLY ACTING MUSCLE RELAXATION	H	24 HRS
	4	5-20 GMS	PO	BID, TID		H	48 HRS

METHYL-ERGONOVINE	4	5-10 MG	IV, IM	SID	EIPH	L	24 HRS
METHYL-PREDNISOLONE	4	40-200 MG	IA, IM	ONCE	STEROIDAL ANTI-INFLAMMATORY	M	48 HRS
NANDROLONE	4	100-200 MG	IM	ONCE/1-2 WKS	ANABOLIC STEROID	L	48 HRS
NAPROXEN	4	4-5 GM	PO	SID, BID	NSAID	L	24 HRS
OMEPRAZOLE	5	2.2 GM	PO	SID	PROTON PUMP INHIBITOR (GASTRIC ULCERS)	L	24 HRS
PENTOXIYFYLLINE	4	2-4 GM	PO	BID	PERIPHERAL VASODILATOR	M	48 HRS
PHENYTOIN	4	3-5 GM	PO	SID	EXERTIONAL MYOSITIS	H	48 HRS
PHENYLBUTAZONE	4	1-2 GM	IV, PO	SID, BID	NSAID	L	24 HRS
PREDNISOLONE	4	100-500 MG	IV, IM	SID	STEROIDAL ANTI-INFLAMMATORY	L	24 HRS
PREDNISONE	4	200-400 MG	IM, PO	SID, BID	STEROIDAL ANTI-INFLAMMATORY	L	24 HRS
PROCAINE (AS PEN-G)	3	20 MG/ML (= 30 ML)	IM	BID	LOCAL ANESTHETIC (PPG-ANTIBIOTIC)	H	48 HRS
RANITIDINE	5	8 MG/KG	PO	BID	H_2 BLOCKER (GASTRIC ULCERS)	L	24 HRS
RESERPINE	2	2.5 MG	IM	ONCE/2-3 WKS	LONG ACTING TRANQUILIZER	H	7+ DAYS
STANOZOLOL	4	250-500 MG	IM	ONCE/1-3 WKS	ANABOLIC STEROID	L	48 HRS
TESTOSTERONE	4	500-1000 MG	IM	ONCE/1-3 WKS	ANABOLIC STEROID	L	48 HRS
TRIAMCINOLONE	4	2-18 MG	IA, IM	ONCE	STEROIDAL ANTI-INFLAMMATORY	L	24 HRS
TRICHLOR- METHIAZIDE	4	200-400 MG	PO	SID	DIURETIC (COMBINED W/DEXAMETHASONE AS NAQUSONE)	L	24 HRS
XYLAZINE	3	100-400 MG	IV, IM	ONCE	TRANQUILIZER	H	48 HRS

* Clenbuterol could have a 48-hr CLINICAL CUTOFF, but 96 hrs was generally thought to be clinically workable.

Appendix IV

References for Appendix II:

1) The Ohio State Racing Commission
Drug Classification System (June, 1999)
The Ohio State University
Analytical Toxicology Laboratory
College of Veterinary Medicine
Columbus, OH 43210
Communicated summer 1999 by Mr. Tom Journell, Esq.

2) California Horse Racing Board
Horsemen's Handbook Concerning Medication Rules and Regulations
1010 Hurley Way, Suite 300
Sacramento, CA 95825
http://www.chrb.ca.gov/

2a) Memorandum from California Horse Racing Board re: NSAID rule changes 5/19/99

3) Washington Horse Racing Commission
7912 Martin Way, Suite D
Olympia, WA 98516
http://www.whrc.wa.gov/

4) New Mexico Racing Commission
300 San Mateo Boulevard, N.E., Suite 110
Albuquerque, NM 87108
(505) 841-6400
Title 15, Chapter 2, Part 6

5) Texas Racing Commission
Medication Information
8505 Cross Park Drive, Suite 110
Austin, TX 78758
http://www.txrc.state.tx.us/

6) International Federation of Horseracing Authorities
Des Autoripes Hippiques
De Courses Au Galop
46, place Abel Gance
92655 Boulogne Cedex
France
http://www.horseracingintfed.com/

7) Australian Equine Veterinarian Association
Detection of Therapeutic Substances in Racing Horses
134-136 Hampden Road
Artarmon NSW 2064
Australia
http://www.eva.org.au/

8) Equine Medication Surveillance Lab
School of Veterinary Medicine
Louisiana State University
Baton Rouge, LA 70803

9) Canadian Pari-Mutuel Agency Schedule of Drugs
Canadian Pari-Mutuel Agency
P.O. Box 5904
Station F
Ottawa, Ontario
K2C 3X7
Canada
http://www.cpma-acpm.gc.ca/cpma_e.html

10) Testing for Therapeutic Medications, Environmental and Dietary Substances in Racing Horses A workshop held at the Maxwell H. Gluck Equine Research Center, University of Kentucky, Lexington, KY, August 18-19, 1994. pp. 85-91

11) Jockey Club of Brasileiro
Laboratorio Anti-doping
Rua Bartolomeu Mirte, 1314 - Gavea
Rio de Janeiro
Brazil

12) Pennsylvania State Horse Racing Commission
Guidelines for Medications in Racehorses
Agriculture Building
2301 North Cameron Street
Harrisburg, PA 17110-9408

13) 1998 Idaho Administrative Code.
IDAPA 11/04/01. Department of Law Enforcement, Rules Governing Horse Racing.
14) Illinois Administrative Code
Ch.1 § 603, Subtitle B, Subchapter C.

15) USA Equestrian (formerly American Horse Shows Association)
4047 Iron Works Parkway

Lexington, KY 40511
(859) 258-2472

16) Substances of Dietary Origin: Morphine
Ginn, A., Clark, A., Grainger, L., Houghton, E., Williams, R.B.* Horseracing Forensic Laboratory, Newmarket Road, Fordham, Cambridgeshire, England, CB7 5WW; *42 Portman Square, London, England, W1H 0EN.

17) American Association of Equine Practitioners
Policy on Therapeutic Medications in Racehorses
4075 Iron Works Parkway
Lexington, KY 40511
http://www.aaep.org/

18) Hong Kong Jockey Club
Racing Laboratory
Sha Tin
Hong Kong
http://www.hkjc.com/english/index.asp

19) Department of Health and Human Services:
Substance Abuse and Mental Health Services Administration
"SAMHSA's Mandatory Guidelines for Federal Workplace Drug Testing Programs":
http://www.health.org/workplace/GDLNS-94.htm

20) Department of Health and Human Services:
Substance Abuse and Mental Health Services Administration
"SAMHSA's Mandatory Guidelines for Federal Workplace Drug Testing Programs: Federal Register Notice Changing the Opiate Testing Cutoff Concentrations (effective December 1, 1998)"
http://www.health.org/workplace/testing.htm

21) Kentucky Horse Racing Authority
4063 Ironworks Pkwy Building B
Lexington, KY 40511
http://www.khra.ky.gov

22) Oregon Racing Commission
800 NE Oregon St. Suite 310
Portland, OR 97232
http://www.racing.oregon.gov

23) Maryland Racing Commission
300 E. Towsontowne Boulevard
Towson, Maryland 21286
http://www.dllr.state.md.us/racing

24) Nebraska State Racing Commission
PO Box 95014
301 Centennial Mall South, 6th Floor
Lincoln, NE 68509-5014
http://www.horseracing.state.ne.us

25) Colorado Department of Revenue
Division of Racing Events Lakewood Office 1881 Pierce Street Suite 108 Lakewood, Colorado 80214
http://www.revenue.state.co.us

26) Arkansas Racing Commission
1515 West Seventh Street Suite 505
Little Rock, AR 72201
http://www.arkansas.gov/dfa/racing/rc_index.html

27) Kansas Racing and Gaming Commission
700 SW Harrision, Suite 420
Topeka, KS 66603
http://www.ksracing.org

28) Minnesota Racing Commission
P.O. Box 630
Shakopee, MN 553709
http://www.mnrace.commission.state.mn.us

29) Iowa Racing and Gaming Commission
717 East Court, Suite B
Des Moines, IA 50309
http://www.iowa.gov/irgc

30) Virginia Racing Commission
10700 Horsemen's Road
New Kent, Virginia 23124
http://www.vrc.virginia.gov

31) Delaware Department of Agriculture
Thoroughbred Racing Division
2320 South DuPont Highway
Dover, Delaware 19901
http://www.dda.delaware.gov/thoroughbred

32) Arizona Department of Racing
1110 West Washington,
Suite 260 Phoenix, AZ 85007

http://www.azracing.gov

33) Florida Division of Pari-Mutuel Wagering
1940 North Monroe Street
Tallahasse, FL 32399
http://www.myflorida.com/dbpr/pmw

34) Montana Board of Horse Racing
Department of Livestock Horse Racing Bureau
301 S. Park Helena, Montana 59620
http://www.mt.gov/liv/horseracing

35) West Virginia Racing Commission
P.O. Box 551
Charlestown, WV 25414
http://www.wvf.state.wv.us/racing

36) Michigan Racing Commissioner
P.O. Box 30773
Lansing, MI 48909
http://www.michigan.gov/horseracing

37) Wyoming Pari-Mutuel Commission
2515 Warren Avenue, Suite 301
Cheyenne, WY 82002
http://www.parimutuel.state.wy.us

38) Massachusetts Racing Commission
One Ashburton Place, Room 1313
Boston, MA 02018
http://www.state.ma.us/src/

39) Association of Racing Commissioners International
2343 Alexandria Dr., Suite 200
Lexington, KY 40504
http://www.arci.com

40) Camargo F, Hughes C, Lehner A, Stirling K and Tobin T: "Trace" Benzoylecgonine Identifications in Post-Race Urines: Probable Sources and Regulatory Significance of Such Identifications. AAEP Proceedings, 52:331-336, 2006.

41) Oklahoma Horse Racing Commission
Directive on Commission-Sanctioned Thresholds [3A:205.2(H)]
Approved by Commission of 1/25/07
Shepherd Mall
2401 NW 23rd. Street, Suite 78

Oklahoma City, OK 73107
http://www.ohrc.org

42) **Dehennin L, Bonnaire Y, Plou P:** Detection of nandrolone administration to the entire male horse by a provisional concentration threshold for urinary oestranediol determine by gas chromatography-mass spectrometry. *Equine Vet J*, 39(2):186-188, 2007.

43) Indiana Horse Racing Commission
150 W. Market Street #530
Indianapolis, IN 46204
(317) 233-3119

American Graded Stakes Committee

Criteria for Consideration for Grading

To aid the Committee in determining which races should be considered for grading, the Committee has adopted the following criteria for screening American races:

Purse requirement – A race is not considered for grading unless it is scheduled to have a total purse value (excluding state-bred supplements) of at least $75,000 for eligible, ungraded, $100,000 for Grade III, $150,000 for Grade II, and $250,000 for Grade I.

Drug testing – A race is not considered for grading unless the testing performed on the samples collected from the horses selected from the race meets or exceeds the guidelines in the committee's drug testing protocol.

Medication – Races are ineligible for grading if Association of Racing Commissioners International model rules on androgenic-anabolic steroids and non-steroidal anti-inflammatory drugs are not adopted.

Longevity – Races are not graded unless they have had two previous runnings under fundamentally the same conditions, for the same division of horses, and meeting the minimum purse requirements.

Restricted races – Races will be ineligible for grading if conditions for competing in them include restrictive provisions relative to which horses may enter, other than by sex or age. A race is regarded as a restricted race if any of its conditions for entry would tend to exclude better horses while allowing participation by lesser horses.

Preference conditions – Preference conditions should be written to industry acceptable standards, i.e. high weights, graded wins/placings, graded earnings, points from graded wins/placings, etc., with the goal of achieving the highest quality field. Deviating from standard preference practices may result in fields of less quality, which could lead to downgrading through the graded stakes review process.

Invitational races – Not all invitational races carry all the strict definitions of stakes race entry fees, but are eligible for grading if the added or guaranteed money meets the minimum purse requirements and the race satisfies all other criteria.

Changes in conditions by racetrack management – If a graded or eligible race is altered materially in age, sex, eligibility, racetrack location, or purse, or is substantially changed on the calendar, this will prompt a review and may result in a change in grade. (If it is regarded as a new race, it must be run two years before it can be considered for grading.) If a race is not run for two or more years, it is ineligible for grading. If a race is scheduled to be moved from dirt to turf or vice versa, or if its distance is altered (a) by more than one-quarter mile, or (b) from sprint distance (less than one mile) to route distance (one mile or greater) or vice versa, it will be considered a new race and is ineligible for grading until run twice under the new conditions. However, the Committee will review any such change and may decide to restore a race's eligibility. Stakes races that are eligible for grading must appear in the track's published stakes book. "Overnight" races are not eligible for grading.

Forced changes in track surface and splitting of races – A race which has been given a grade is not penalized for that running if it is split into divisions (unless the total purse for all divisions is less than 150% of the original purse). If turf course conditions prompt its being changed to a non-grass course after the close of nominations, the race is automatically downgraded by one grade level for that running only; however, the Committee will review the race within five (5) days of its running and may restore its prior grade for that running.

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Appendix VI

by: The Blood-Horse Staff
July 23 2009, Article # 14586

Safety Committee Adjusts Recommendation Pertaining to Height of Toe Grabs

After discussions with industry participants and a review of all scientific research available on the use of toe grabs on the front shoes of Thoroughbreds, The Jockey Club Thoroughbred Safety Committee recommends adjusting the current RCI Model Rule on horse shoes to allow toe grabs up to four millimeters in height on front shoes on dirt racing surfaces only.

The committee's recommendation comes on the heels of the Delaware Racing Commission's decision to adopt an emergency regulation June 23 allowing for the four millimeter toe grabs. The track was the first to adopt an emergency exception to the committee's original recommendation of toe grabs up to two millimeters after noticing an unusually high number of horses stumbling at the start during the first month of its meet.

The Thoroughbred Safety Committee believes the current elimination of traction devices on front shoes should be maintained and only the height of the toe grab should be adjusted in the Model Rule. In no case does the Thoroughbred Safety Committee recommend the use of toe grabs of greater than four millimeters on front shoes of Thoroughbreds. The Thoroughbred Safety Committee continues to believe the recommendation limiting traction devices on front shoes of Thoroughbreds to toe grabs no greater than two millimeters is in the best interests of the welfare and safety of the horse.

However, the Thoroughbred Safety Committee is sensitive to the concerns of the horsemen and recognizes local circumstances such as dirt track composition and/or weather conditions might justify the racing commission and/or the racetrack to allow horsemen the discretion to utilize short toe grabs no greater than four millimeters on the front shoes of Thoroughbreds on dirt racing surfaces only.

(Originally published at BloodHorse.com.)

Appendix VII

Delaware Track Adopts Emergency Rule on Toe Grab Horseshoes

by:EstherMarr
July 17 2009, Article # 14547

After noticing an unusually high number of horses stumbling at the start during the first month of the Delaware Park meet, the Delaware Racing Commission adopted an emergency regulation that allows toe grabs with a height of up to four millimeters to be permitted for racing on dirt.

The track had implemented a recommendation from The Jockey Club Thoroughbred Safety Committee at the start of its meet April 25 that called for an immediate ban on toe grabs other than two-millimeter wear plates, jar caulks, stickers, or any other traction devices worn on the shoes of Thoroughbred during racing or training.

The New York Racing Association, Churchill Downs Inc., and all Kentucky tracks had implemented the recommendation. Delaware Park is the first facility to adopt an emergency exception to the rule.

DTRC executive director John Wayne said it was after a week of racing that he first noticed a lot of notations in the stewards' reports in which horses were stumbling at the start.

"We compiled a list, which goes from May 2 to June 24, and we had 29 horses stumble at the start for those days of racing," Wayne said. "One of the horses had fallen, and one of the jockeys actually got tossed off a horse. The commission was concerned about the possibility that a rider could be injured.

"We had a lot of input from the Jockey's Guild about the toe grabs, and they were applauding the fact the commission was considering removing the two-millimeter restriction and making it four millimeters like The Jockey Club had originally proposed."

Wayne said the high number of stumbling incidents was unusual considering Delaware Park usually goes a whole season with very few. Based on the data compiled by the stewards and the positive jockey input, the commission decided it was enough information to enact the emergency regulation at its June 23 meeting.

The DTRC immediately notified the National Thoroughbred Racing Association and The Jockey Club about the change.

The regulation, which was signed by DTRC chairman Bernard Daney, states that "having determined that an imminent peril to the public health, safety, or welfare exists ... notwithstanding any house rule of a commission licensee to the contrary, toe grabs up to a height of no greater than four millimeters shall be permitted for racing on dirt."

The emergency is effective for 120 days unless terminated by the commission. The regulation states it "in no way affects the two-millimeter limit house rule pertaining to graded stakes events."

In order to maintain grades for stakes, racetracks had to adopt the toe-grab limit under a directive from the American Graded Stakes Committee.

Wayne said since the implementation of the rule, there have been two stumbling incidents, and those horses might have still been wearing the two-millimeter toe grabs.

"The difference is like night and day," he said. "The numbers fell off following the implementation of the emergency rule. Keep in mind that some horsemen may still be using the two-millimeter toe grabs even though the rule went public virtually on June 24."

(Originally published at **BloodHorse.com**.)

3

COPY

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June 29, 2010

RECEIVED
JUN 30 2010
ATTORNEY GENERAL'S OFFICE

WV Racing Commission
106 Dee Drive, Suite 2
Charleston, WV 25311

RE: Rules of Racing – Public Comment

Dear Commissioners:

After thorough review of the new Rules of Racing, we are enclosing our proposed changes to the Rules and our comments as to why we believe these changes need to be made. As veterinarians, the health and safety of the race horse is our primary concern. We would like to be able to offer a high standard of care for these athletes and our list of changes/omissions would facilitate this.

We have enclosed reference material with hi-lighted sections that support our recommendations (Exhibits A through E attached to proposed changes). Also enclosed are two articles concerning caffeine and cocaine that may be helpful when reviewing the medication guidelines (Exhibits F and G). These two articles bring to our attention the need for expanding the guidelines to include additional threshold testing for environmental contaminants. We did recognize the addition of a threshold level for caffeine in the rules.

If anywhere in the public comment review process you have any comments or concerns, please involve us by calling Dr. Keith Berkeley or Dr. Francis Daniel III at 304-725-1471.

Sincerely,

Keith B. Berkeley, DVM.

Keith B. Berkeley, DVM

KBB/smh
cc: Kelli D. Talbott, Esquire
Enclosures

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Public Comment

WV Rules of Racing

Filed - June 29, 2010

25.6 Financial Responsibility

Proposed change: Add the following or something similar:

25.6.c. Applicants that have filed bankruptcy involving dismissing the charges of another occupational/vendor permit holder will be denied a permit of any kind for five (5) years from the date of discharge of the applicant's debts.

Why: A rule like this would fall in line with the other two financial responsibility rules. This rule would support financial responsibility by encouraging permit holders to pay their bills. Today, permit holders file bankruptcy, have debts discharged and return to the industry as if nothing happened.

27.2 Trainer Responsibility as to the Condition of the Horse. As further set forth in subdivision 52.1.a. of this rule, the trainer is responsible as an absolute insurer of the condition of the horses he or she enters in an official workout or a race regardless of any act of a third party.

and

52.1.a. The trainer is the absolute insurer of and responsible for the condition of the horses he or she enters in an official workout or a race, regardless of the acts of third parties. If testing or analysis of urine, blood or other bodily substances or tissues prove positive showing the presence of any prohibited drug, medication or substance, the trainer of the horse may be fined, suspended, have his or her occupation permit revoked, be prohibited access to all grounds under the jurisdiction of the Racing Commission, or may be otherwise disciplined. 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 or attendance of the horse may be fined, suspended, have his or her occupational permit revoked, be prohibited access to all grounds under the jurisdiction of the Racing Commission, or may be otherwise disciplined.

Note: These are the two rules drug infractions appear to be handled under currently. Today the trainer receives a warning, may get fined, may get days and/or lose the purse. To apply a penalty to the licensed owner is a real shift in theory. Today the owner's punishment is loss of training, training bills incurred, veterinarian fees and possibly the loss of purse. Granted in the current rules, 178-1.31.2, the owner, foreman and groom may be penalized. We believe a printed, planned owner penalties schedule will discourage rather then encourage owners to be in the racing industry.

49.2.d. Veterinarians shall not have contact with an entered horse on a race day except for the administration of furosemide (Salix®) under the guidelines set forth in subsection 50.7. of this rule unless approved by a Racing Commission veterinarian.

Proposed change: Delete this paragraph.

Why: As veterinarians, we are regularly asked to check horses on race day. This includes physical exams including a horse not eating or horse that may have swelling somewhere. Trainers often want an opinion if the horse should race or be scratched. To limit this type of exam on race day would be a disservice to the horse. This would be similar to not allowing a coach or athletic trainer to examine athletes on the day of the game. Having to get approval by the Racing Commission veterinarian would make this very untimely if not impossible. *Also, this rule could only be imposed on horses that are housed on racetrack grounds, not those housed on farms or shipping in from out of town.*

49.4. Prohibited Practices

49.4.a. The possession or use of a drug, substance or medication on the premises of a facility under the jurisdiction of the Commission for which a recognized analytical method has not been developed to detect and confirm the administration of such substance; or the use of which may endanger the health and welfare of the horse or endanger the safety of the rider; or the use of which may adversely affect the integrity of racing; or

Proposed change: Delete this paragraph.

Why: The terminology "recognized analytical method has not been developed to detect and confirm" could be considered vague. There is no list and/or an ever-changing list of drugs/chemicals – this would be difficult to know.

The connotation of the paragraph is covered in paragraph 49.4.b.

To use drugs, substances, or medications that are safe, effective, and approved. Approval may even be at the current standard of veterinary care.

49.4.c. The possession and/or use of blood doping agents, including but not limited to those listed below, on the premises of a facility under the jurisdiction of the Racing Commission is forbidden.

Proposed change: To change the wording as follows:

...use of blood doping agents, those agents that stimulate an increase in the oxygen carrying capacity, including but not limited to...

Why: Adding this phrase helps define blood doping agents, either those that stimulate cell production or those that increase the oxygen capacity of the cell.

Proposed change: Add 49.4.c.5. Aransep. *(Aransep is darbepoetin alpha.)*

Why: This addition would make the list uniform with the list in rule 50.13.d.1.

49.4.d. The use of extracorporeal shock wave therapy or radial pulse wave therapy shall not be permitted on horses racing in this state and extracorporeal shock wave therapy or radial pulse wave therapy equipment shall be prohibited on association grounds.

Proposed change: To replace this rule with the following:

The use of extracorporeal shock wave therapy or radial pulse wave therapy shall not be permitted on horses ten (10) days prior to racing.

Why: Shock wave therapy has been proven to be of therapeutic value. Granted it has some analgesic effects for a period of 3 to 7 days depending on the literature. However, to ban the use of shock wave therapy, a therapy also used in human medicine, is a real limit on veterinary medicine. See articles attached by Dr. Scott McClure at Iowa: *In Vivo Evaluation of Extracorporeal Shock Wave Therapy for Collagenase Induced Suspensory Ligament Desmitis* (Exhibit A), *Safety of Shock Wave Therapy in Performance Horses* (Exhibit B) and an article by Dr. Scott Palmer, *Treatment of Dorsal Metacarpal Disease in the Thoroughbred Racehorse with Radial Extracorporeal Shock Wave Therapy* (Exhibit C). Also attached is an article reported on May 8, 2010 (Exhibit D) that states that The Association of Racing Commissioners International's Model Rules currently prohibit the use of shock wave therapy within 10 days of racing but that there is no method of detecting its use at this time.

50.3.b. In issuing penalties against individuals found guilty of medication and drug violations a regulatory distinction shall be made between the detection of therapeutic medications used routinely to treat race horses and those drugs that have no reason to be found at any concentration in the test sample on race day.

Note: The spirit of this rule is to distinguish between therapeutic drugs and drugs that have no purpose in the race horse. We support that.

We believe Class 1 and Class 2 (drugs that have no use in race horses) drug infractions should be severely punished. Class 3 drug infractions, especially for the first offense, could be reprimanded with no loss of purse, a fine of $250, and no days. The second offense would warrant a severely larger fine and days for the trainer. The third offense, a fine, days for the trainer and loss of purse. Drugs in Classes 3, 4 and 5 are therapeutic drugs – drugs used daily in the race horse. A human error in the use of these drugs, first offense, needs to be punished by a strong warning. Second and third offenses need to be punished more severely. Class 4 and Class 5 infractions should not be punished by loss of purse.

50.3.e. Any drug or metabolite thereof found to be present in a pre- or post-race sample which is not classified in the Uniform Classification Guidelines of Foreign Substances as promulgated by the Association of Racing Commissioners International (RCI) (revised January 2010), set forth in table 178-1 D at the end of this rule shall be assumed to be a Class 1 drug and the trainer and owner shall be subject to those penalties for Class 1 drug violations as set forth in table 178-1 D at the end of this rule, unless satisfactorily demonstrated otherwise by the Racing Mediation and Testing Consortium (RMTC).

Proposed change: ...(revised January 2010), set forth in table 178-1 D at the end of this rule shall be classified in the appropriate class and the trainer and owner shall be subject to those penalties as set forth in table 178-1 D...

Why: In an ever-changing world, new drugs, appropriate identification and penalties are only fair.

50.7.h.1. A horse on the furosemide (lasix®) program that races without furosemide (lasix®) in any jurisdiction which permits the use of furosemide (lasix®) may not be eligible for its use for a period of sixty (60) days.

Proposed change: A horse on the furosemide ~~(lasix®)~~ (Salix®) program that races without furosemide (Salix®) in any jurisdiction which permits the use of furosemide (Salix®) will be taken off of the furosemide (Salix®) list.

Why: The current rule penalizes the horse, severely, and this rule is inconsistent with rule 50.8.b. where the time frame is 45 days for a second bleed.

Note: In all rules, Lasix® needs changed to Salix® - this is the correct name for the name brand furosemide labeled for use in animals. *Also, we have been notified on June 18, 2010, that Salix® and generic forms of furosemide are on backorder with no return date. After checking with several compounders, the ingredients needs to compound furosemide are not readily available. We are concerned about this.*

50.7.h.2. To become eligible after sixty (60) days, the horse shall have been observed to have bled by a Racing Commission veterinarian either:

Proposed change: Delete "after sixty (60) day" with rule to read:
To become eligible, the horse shall have been observed to have bled by a Racing Commission veterinarian either:

Why: The goal of this change is to make the time frame for a second time bleeder consistent - 45 days for a second bleeder in one year (as in rue 50.8.b.) or for a horse that is over one year from the first bleed, a 10-day penalty.

Note: *The rule states that a Racing Commission veterinarian must observe that the horse had bled. Currently, practicing veterinarians are performing endoscopic exams and placing horses that have bled on the Salix® program. Rule needs clarification depending on what Racing Commission desires.*

50.11 Androgenic–Anabolic Steroids (AAS)

Proposed change: Delete 50.11.a through 50.11.f.

Replace with the following:

50.11.a No androgenic-anabolic steroids are to be administered to a horse within fourteen (14) days of racing.

Why: Maryland and Pennsylvania have rules similar to the rules we are asking to be deleted. These rules have not worked well in other jurisdictions. The state veterinarians in Maryland and Pennsylvania now recommend guidelines to use small doses of AAS no closer than fourteen (14) days prior to racing. In the real world of practice, veterinarians do not currently treat horses with AAS closer than fourteen (14) days prior to a race.

See attached article (Exhibit D) from the Summer 2010 issue of The Horsemen's Journal stating that Dr. Rick Sams presented an update on RMTC-funded research regarding thresholds and withdrawal times. He also states that they will be doing more research on AAS and plan to publish withdrawal time recommendations in the next 90 to 120 days.

50.5. Medical Labeling. The following provisions apply to medical labeling…

Proposed change: Question: Does this rule allow for more than one patient (horse) to be listed on the label?

Why: Veterinarians support this rule as long as large volume, multi-dose packaged products can be dispensed and labeled with more than one patient listed on the label.

51.3.a. All blood and urine specimens shall be frozen and forwarded to an official chemist by a Racing Commission veterinarian or his or her designee. The racing association shall pay all laboratory expenses for blood and urine analysis. In the event that the laboratory analysis of blood or urine specimen reveals the presence of a prohibited substance in violation of this rule, the association may assess the laboratory expenses against the horsemen's bookkeeper's account of the owner of the horse.

Proposed change: Delete last sentence.

Why: No other jurisdiction charges owner for testing. Owners are a dying breed we need to encourage not discourage owners to be in the industry.

51.3.b. Specimens of other bodily substances or tissues may be collected and forwarded to an official chemist by a Racing Commission veterinarian or his or her designee. The Racing Commission shall pay all laboratory expenses for analysis of such bodily substances or tissues. In the event that the laboratory analysis of the bodily substance or tissue reveals the presence of a prohibited substance in violation of these rules, the Racing Commission may assess the laboratory expenses against the horsemen's bookkeeper's account of the owner of the horse.

Proposed change: Delete last sentence.

Why: No other jurisdiction charges owner for testing. Owners are a dying breed we need to encourage not discourage owners to be in the industry.

Exhibit A

This article is about the benefits of using ESWT.

In Vivo Evaluation of Extracorporeal Shock Wave Therapy for Collagenase Induced Suspensory Ligament Desmitis

Scott McClure, DVM, PhD; and Richard B. Evans, PhD

Extracorporeal shock wave therapy improved the rate of healing of collagenase-induced suspenso ligament desmitis in horses, as measured by ultrasonographic imaging. Extracorporeal shock wa therapy resulted in a statistically significant decrease in lesion area and improved fiber alignme and echogenicity of the ligament in treated ligaments when compared with control ligaments. A thors' address: Department of Veterinary Clinical Sciences, College of Veterinary Medicine, Am IA 50010-1250. © 2002 AAEP.

1. Introduction

Suspensory ligament desmitis is a common disease causing primary and compensatory lameness in the equine athlete. The disease can cause long-term lameness, restricting the horse's ability to perform at the level of competition achieved before the onset of lameness.

osteoblastic

[8]

Initial clinical experiences with ESWT indic that this therapy may be a beneficial treatment suspensory ligament desmitis. Follow-up eval tion at 6 mo or more revealed improvement in la ness with a corresponding improvement ultrasonographic appearance in six of seven ho in which suspensory desmitis was treated ESWT.[9] These results are similar to those of o investigators that found seven of eight horses >90-day follow-up to have a decreased lamene

The objective of this study is to evaluate the e tiveness of ESWT on collagenase induced sus sory desmitis.

2. Materials and Methods

Four horses with a mean age of 7.25 yr (range, yr) and mean weight of 430 kg (range, 383–47 with ultrasonographically normal suspensory

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ments were used for the study. Lesions were induced in both forelimb proximal suspensory ligaments, 12-cm distal to the accessory carpal bone with 4000 IU collagenase.[a] The horses were ultrasonographically evaluated weekly for 3 wks, at which time the lesions seemed stable in size and appearance. At this time, ESWT was initiated. In each horse, one suspensory ligament served as an untreated control and one was treated with a focused shock wave generator[b] at 0.13 mJ/mm^2 three times at 3-wk intervals. Five hundred pulses were administered from the palmar aspect of the limb with a 35-mm probe and 500 more from palmar-lateral and palmar-medial with a 5-mm probe for a total of 1500 pulses. The size and appearance of the baseline lesions were recorded ultrasonographically 3 wk post-induction and re-evaluated at 3-wk intervals to the completion of the project at 15 wks. Recording of the ultrasonographic appearance of the suspensory ligament was done at five sites at 2-cm intervals, starting at the proximal attachment. The image analysis software in the ultrasound system[c] was used to measure the cross-sectional area of the ligament, defect, and percent lesions (%Les). A fiber alignment score (FAS) and echogenicity score (EchoS) were given at each 2-cm interval. A scoring system as described for superficial digital flexor tendon lesions was used.[11] The FAS was as follows: 0 = 75–100% parallel fiber alignment, 1 = 50–75% parallel fiber alignment, 2 = 25–50% parallel fiber alignment, and 3 = 0–25% parallel fiber alignment. The EchoS was as follows: 0 = normal or near normal, 1 = mostly echogenic, 2 = 50% anechoic and 50% echogenic, and 3 = mostly anechoic. The sum of the %Les, FAS, and EchoS from each of the five sites in each ligament made the total percent lesion (t%Les), total FAS (tFAS), and total EchoS (tEchoS).

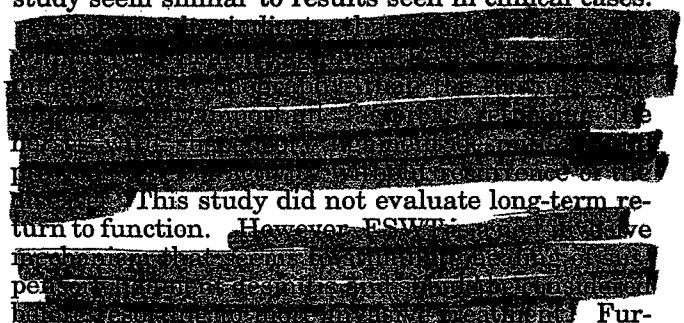
Statistical analysis was performed on six outcome variables: %Les, FAS, and EchoS at the site of the largest percent lesion in each ligament and t%Les, tFAS, and tEchoS for each ligament. Each variable was determined once for each suspensory ligament at five time points; therefore, the data are repeated measures. The baseline measurement was the measurement obtained the day treatment was initiated. To test the difference between treatment and control groups for each of the six variables, two methods of analysis were used. The FAS and EchoS are ordinal scores (0–3), which may not satisfy assumptions required for continuous data analysis methods. Instead, each ligament's score over time was summarized by the slope coefficient of a linear regression (FAS or EchoS versus time). The slope coefficient represents the trend of the variable for each horse over time. The resulting summaries (four slope coefficients per group) are used in t tests to compare FAS and EchoS for treatment and control. The tFAS and tEchoS variables are sums of FAS and EchoS over the five sites measured in the ligament. The possible range of the totals (0–15) is sufficient to treat these as continuous variables. The %Les and t%Les are continuous variables. Multiple analysis of covariance (MANCOVA) was used to compare treatment and control groups for continuous variables. MANCOVA accounts for within-subject correlation across time and controls for differences in baseline data across groups.[12] For each variable, the time × group interaction was not significant after controlling for baseline to assess the group effect directly. A $p \leq 0.05$ was considered significant.

3. Results

The treated group had statistically significantly ($p < 0.05$) lower means for tFAS, tEcho, and t%Les than the control group. The %Les is significantly lower in the treated group than the controls. The FAS was not statistically significant between treatment and control ($p = 0.0584$), but the treatment group had a lower average slope (−0.45, 0.1) than the control group (−0.1, 0.1). Therefore, the FAS scores for the treatment group were decreasing faster than for the control group. The EchoS was not statistically significant ($p = 0.8$) between treatment and control. For tFAS, the average difference (control − treatment) over the groups is 2.6; for tEchoS, the difference is 2.28; and for t%Les, the difference is 31.58%.

4. Discussion

The collagenase model has previously been used for the evaluation of tendon healing in the horse.[13,14] This model provides a controlled mechanism for paired comparisons that decrease the number of animals needed for the study. Whereas it is possible that naturally occurring suspensory ligament desmitis may respond differently, the results of this study seem similar to results seen in clinical cases.



This study did not evaluate long-term return to function. However, ESWT is [illegible] Further investigations and clinical evaluations will be needed to assess long-term outcome.

A major problem in clinical cases of suspensory desmitis is the horse that remains chronically lame with lesions that seem to be slow healing. In this study, therapy was initiated 3 wk after induction of the lesion. This study indicates that ESWT decreased the %Les, t%Les, tFAS, and tEchoS faster than the control limbs when treatment is initiated early. Though a direct relationship cannot be implied, the author feels that the response seems similar to more chronic clinical cases.

[redacted] same as the author's ESWT uses in the last study. This study used three treatments at 3-wk intervals, with 1500 pulses per treatment at an energy setting of 0.13 mJ/mm^2. It is well known that ESWT is dose-dependent.[15,16] Low energy and a low number of pulses may have no effect, whereas excessive energy or pulses may be detrimental. It is possible that refinement of the technique could result in improved healing.

This study was funded by the USA Equestrian and a University Research grant from Iowa State University.

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[a]Collagenase C1639, Sigma Chemical Co., St. Louis, MO
[b]Equitron®, High Medical Technologies, Lengwil, Swit CH7584.
[c]Falco 100®, Pie Medical USA, Indianapolis, IN 46250.

Exhibit B

This article is about the safety/withdrawal times of ESWT

Safety of Shock Wave Therapy in Performance Horses

Scott McClure, DVM, PhD; Ionea M. Sonea, DMV, PhD; Mike Yeager, DVM, PhD; Frederick E. Pauwels, DVM; Richard B. Evans, PhD; Viren Amin, PhD; and David Van Sickle, DVM, PhD

Shock wave therapy can induce a period of cutaneous analgesia after treatment. Shock wa therapy does not induce microfractures nor does it have an effect on the modulus of elasticity bone. Authors' addresses: Departments of Veterinary Clinical Sciences (McClure), Basic Medic Sciences (Sonea), Veterinary Diagnostic and Production Animal Medicine (Yeager, Evans), College Veterinary Medicine and the Center for Nondestructive Testing (Amin), Iowa State University, Am IA 50011; and Departments of Basic Medical Sciences (Van Sickle) and Veterinary Clinical Scienc (Pauwels), School of Veterinary Medicine, Purdue University, West Lafayette, IN 47907. © 20 AAEP.

1. Introduction

[redacted] lo- xtracorporeal shock waves are pressure waves generated outside the body that can be focused at a specific site within the body. Shock waves are characterized by high positive pressures of up to 100 bar and negative pressures of 5–10 bar.[1] They have a rapid rise time of 30–120 ns and a short (5 μs) pulse duration.[1] More recently, the use of RSWT has gained popularity.[2,3] RSWT uses a projectile mechanism to stimulate a pressure wave. Pressure waves generated by this mechanism are transmitted radially, decreasing in energy proportional to the square of the distance from the surface. The two modalities have different wave forms.[4]

Analgesic effects after both ESWT and RSWT have been reported. In humans, the analgesic effects have been noted, but no studies that identi the mechanism or duration have been complete Various hypotheses such as destruction of nerv and/or nerve receptors and central control of senso input have been proposed, but none have been tru supported. Some in vitro data are available co cerning the direct effect of shock waves on scia nerves from frogs in which shock waves were used repetitively generate action potentials from t nerves.[5] The conclusion was that shock waves not directly affect nerves, but the nerves are affecte through the interaction with small gas bubble This in vitro mechanism may not be applicable in viv particularly in the distal equine limb. Furthermor particularly with RSWT, the nerve would essentiall be trapped between the generator and the bon structures, which would seem to make it more su ceptible to direct damage by the therapy. To dat there have been no investigations of this possibilit

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Another plausible mechanism of anesthesia is the depletion of neuropeptides. Neuropeptides such as substance P (sP) and calcitonin gene-related peptide (CGRP) are contained in small diameter afferent fibers. These fibers conduct impulses that lead to the sensation of pain and can contribute to the inflammatory response.[6] sP and CGRP can be released from peripheral nerve endings of nociceptive primary afferents and exert pro-inflammatory effects in peripheral tissues. sP and CGRP have been identified in the periosteum and joint capsule of multiple species. Additionally, sP and CGRP have been identified in the marrow, periosteum, and cortex of long bones.[7] In horses, sP innervation is identified in areas of disease suggestive that sP is important in signaling and maintenance of pain associated with osteoarthritis.[8]

Another potential concern is the effect of ESWT and RSWT on bone. Early studies of ESWT in laboratory rodents demonstrated microfractures in bone.[9] Subsequent studies have not supported these finding in larger species.[9,10] However, if ESWT and RSWT alter the modulus of elasticity and microstructure of equine bone, the bone would be weakened, pre-disposing it to catastrophic failure.

The importance of the anesthetic effects of ESWT and RSWT are quite evident. The risk to both horse and rider when working without full comprehension of pain is significant. Furthermore, any effect on the modulus of elasticity could put the horse at risk of fracture. The objectives of these studies are to evaluate the effect of shock waves on (1) cutaneous sensation, (2) nerves, and (3) the modulus of elasticity of bone.

Materials and Methods

Effect of Shock Waves on Cutaneous Sensation

Cutaneous sensation in the horse after ESWT and RSWT was evaluated two ways. First, sensation of the skin directly in the treatment area of the mid cannon bone was measured. In addition, another treatment site that was directly over the palmar digital nerve was selected. Skin sensation in an area that was innervated by this nerve distal to the treatment sight was also measured. This allowed measurement of the effect on skin sensation directly and indirectly by treating the nerve that innervated the skin distal to the treatment site.

Analgesia was assessed by the current stimulus threshold. Two electrodes were placed in the treatment area 2 cm apart. The level of current (mA) at which the horse first moved or indicated that the stimulus was recognized was recorded as the threshold. This was repeated in a random pattern between all four legs.

All of the horses were measured for 3 days before treatment to establish a baseline. The horses were then treated with ESWT or RSWT and measured daily for another 7 days. The treatment consisted of 1000 pulses at 0.15 mJ/mm^2 for ESWT or 1000 pulses at 0.16 mJ/mm^2 for RSWT, distributed evenly around the 3-cm diameter treatment site.

This experiment used six horses. Their legs were the unit of randomization. Each horse had one control leg, one ESWT treated leg, one RSWT treated leg, and one randomly treated leg, with ESWT, RSWT, or control. This resulted in eight ESWT, eight RSWT, and eight control sites. The treatments were block randomized to legs. Stimulation threshold measurements were obtained for baseline (3 consecutive days before treatment), immediately after treatment, and then every 24 h for 7 days. The result is 11 serial measurements per leg.

The object of inference is the earliest time point for which there is no anesthetic effect (i.e., the stimulation threshold at the treatment sites is not statistically different from the control). This was assessed using cross-sectional paired t-tests.

Effect of Shock Waves on Nerves and Neurotransmitters

To study nerves and neurotransmitter substances after shock wave therapy, a sheep model was used. The four legs of 30 sheep were treated over the mid metacarpus and metatarsus. Legs were randomly assigned one of the two treatments (ESWT or RSWT), and the control group was the same as was described for the previous study. This treatment site allowed for the collection of nerve, skin, and periosteum. Specimens were collected from two sheep immediately post-treatment and at daily intervals for 14 days. The skin and periosteum were evaluated for concentrations of sP and CGRP. The nerves directly underlying the treatment sites were fixed and evaluated histologically for any changes associated with the treatment. A two-way analysis of variance, which looked for both the treatment and the time effects for sP and CGRP for the skin and periosteum, was completed.

Effect of Shock Waves on the Modulus of Elasticity and Microstructure of Bone

Specimens (3 × 1 × 1 cm) were harvested from the proximo-dorsal cortex of the third metacarpal bone of 16 healthy horses. Density was measured according to the Archimedes principle. The baseline E was determined by the measured density (ρ) and unidirectional transmission ultrasound speed (ν) of each specimen according to the equation $E = \rho\nu^2$. Measurements of ν were made in a saline bath between two 2.5 Mhz ultrasonic transducer-receivers. Eight randomly assigned specimens were then treated with 500 pulses of 0.15 mJ/mm^2 of ESWT, and eight specimens were treated with 500 pulses of 0.15 mJ/mm^2 of RSWT. After treatment, ν was determined again. This sequence was executed three more times, resulting in 2000 pulses being delivered to each specimen. At the completion of this treatment, ρ of each sample was measured again.

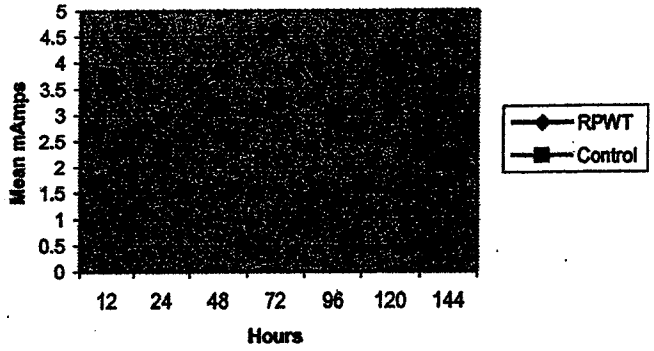

Fig. 1. The current required to elicit a response for the RPWT treated sites was greater than the control sites for up to 72 h post treatment.

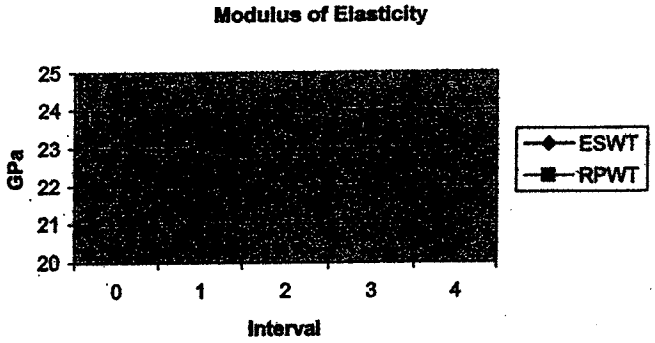

Fig. 3. The modulus of elasticity for the ESWT and RPWT treated bones did not change after each 500 pulse increment through 2000 pulses per bone specimen.

Histological evaluation of the specimens was performed using Toluidine Blue and Basic Fuchsin stains. Four incremental post-treatment Es were calculated per group. The data was analyzed with multivariate analysis of covariance (MANCOVA), which accommodates the correlation induced by repeated measurements on the same subjects as well as adjusts for baseline to determine if there was a difference between treatments.

[redacted]

Effect of Shock Waves on Cutaneous Sensation

[redacted], indicating there was some local cutaneous anesthesia (Figs. 1 and 2). There are substantial differences in the p-values between days 0–3 and days 4–6, reflecting a greater chance that a group (control versus focused or radial) difference exits for days 0–3. [redacted]

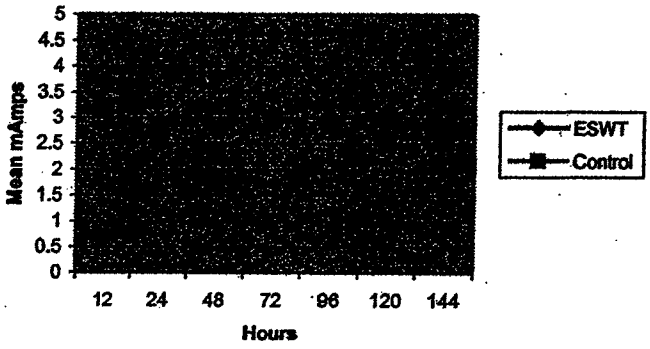

Fig. 2. The current required to elicit a response for the ESWT treated sites was greater than the control sites for up to 72 h post treatment.

Effect of Shock Waves on Nerves and Neurotransmitters

There were no significant differences in concentrations of sP and CGRP in the skin, SC tissue, and periosteum between the treatment groups and control group. The histologic evaluation of the nerves provided more information. For each nerve, multiple histologic factors were evaluated. The categories that had significant findings were perineural inflammation and presence or absence of axonal swelling and fat saponification. The effect of time post-treatment was significant for perineural inflammation ($p < 0.001$) and axonal swelling ($p = 0.04$). These data indicate that the nerves within the treatment field for both ESWT and RSWT had a significant amount of inflammation and swelling for at least 3 days post-treatment.

Effect of Shock Waves on the Modulus of Elasticity and Microstructure of Bone

The number of pulses by group interaction for E was not significant ($p = 0.48$), and the treatment group (ESWT or RSWT) effect was also not significant ($p = 0.79$). The number of pulses by group interaction for ν was not significant ($p = 0.43$), and the treatment group effect was also not significant ($p = 0.77$). There was no effect on the modulus of elasticity with either treatment, which means that there was no effect on the mechanical properties of the bone (Fig. 3). No histological changes could be attributed with certainty to either treatment modality. Using this treatment regimen, ESWT and RSWT do not influence the equine cortical bone breaking strength.

4. Discussion

These studies indicate that there is a potential risk associated with post-treatment analgesia in the horse. These data indicate that a horse should not be subjected to strenuous activities where local analgesia might pre-dispose the horse to injury for at least 4 days after ESWT or RSWT treatment. [redacted] In most situations where these treatment modalities are be-

ing used correctly, the horses should be under limited exercise programs for the underlying musculoskeletal problem.

Nerve inflammation that was seen in the second study could contribute to the analgesic effect noted in the first study. The effects of treatment were significant for perineural inflammation and fat saponification. This is somewhat contradictory to the data generated from the first study where we directly treated the nerve in the distal limb of the horse and did not see any cutaneous analgesia as a result. Interestingly, the control nerve had more perineural inflammation than the ESWT treated nerve. Further studies on the effect of shock waves in nerves in the horse are indicated.

The mechanism to evaluate the bone in this study for microfractures is extremely sensitive. The development of any microfractures or other effects such as disruption of collagen fibers would be measured by this mechanism. The energy settings for this study were near the maximum that could be generated by these devices. It is possible that the results could be different with a higher energy or a greater number of pulses, but the study evaluated treatment levels similar to what is used clinically.

This study evaluated one ESWT and one RSWT generator. There are differences in generators, energy levels, and number of pulses that could affect outcome. These studies used two common machines and a relatively high number of pulses in a small area. Using a higher energy or number of pulses could lead to a different outcome.

This study was supported by the Grayson Foundation.

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Exhibit C

Treatment of Dorsal Metacarpal Disease in the Thoroughbred Racehorse with Radial Extracorporeal Shock Wave Therapy

Scott E. Palmer, VMD, Diplomate ABVP

Radial extracorporeal shock wave therapy was used to treat 50 Thoroughbred racehorses with dorsa metacarpal disease that was unresponsive to conventional therapy. Forty-five of 50 (90%) of thes horses successfully returned to racing. When combined with an appropriate training program radial extracorporeal shock wave therapy seems to be an effective adjunctive treatment for dorsa metacarpal disease in the Thoroughbred racehorse. Author's address: New Jersey Equine Clini 279 Millstone Road, Clarksburg, NJ 08510. © 2002 AAEP.

1. Introduction

DMD includes a wide variety of pathologic changes in the third metacarpal bone, including periosteal new bone formation, focal lysis within the dorsal cortex, and fracture. Treatment of DMD may include controlled exercise, nonsteroidal anti-inflammatory drug (NSAID) medication, periosteal scraping, blistering, pin firing, fenestration, or internal fixation. Extracorporeal shock wave therapy is a relatively new treatment for musculoskeletal injury in performance horses. Although high-energy focused and low-energy radial shock wave devices are being used to treat a number of lameness conditions in Europe and North America, there is little documentation of the effects of shock waves on equine tissue or the efficacy of treatment.[2–4]

2. Materials and Methods

Fifty Thoroughbred racehorses with DMD were in cluded in this prospective study. All horses had history of persistent lameness associated with clin ical and radiographic signs consistent with DMD and had previous treatment for a minimum of 2 mo Previous treatment protocols included rest, con trolled exercise, percutaneous periosteal scraping osteostixis, and NSAID medication. At the time admission, a complete lameness examination was performed to eliminate additional sources of lame ness. The degree of lameness was recorded (AAEP grades 1 to 5).

Xeroradiographs were obtained of both forelimb to document the degree of pathologic change presen in the dorsal cortex of MC3. For the purposes classification, grade I DMD was defined as a hors with varying degree of lameness and shins that wer painful to palpation with normal radiographic find

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gs. Grade II DMD was defined as a horse with rying degrees of lameness, shins that were painful palpation, and radiographic evidence of thicken- g of the dorsal cortex of MC3. Grade III DMD as defined as a horse with varying degrees of lame- ss, shins that were painful to palpation, and ra- ographic evidence of radiolucent lines in the dorsal rtex of MC3 that ran parallel to the long axis of the ne. Grade IV DMD was defined as a horse with rying degrees of lameness, shins that were painful palpation, and radiographic evidence of a single lique fracture line (stress fracture) in the dorsal rtex of MC3. Grade V DMD was defined as a rse with varying degrees of lameness, shins that re painful to palpation, and radiographic evidence multiple oblique fracture lines in the dorsal cortex MC3. Grade VI DMD was defined as a horse th moderate lameness (grades 3–5), a shin that as painful to palpation, and radiographic evidence a fracture line that extended through the dorsal rtex of MC3 into the shaft and/or palmar cortex of C3.

The dorsal aspect of the metacarpus of affected relimbs was clipped and shaved before treatment. orses were sedated with xylazine, 0.44 mg/kg, IV d detomidine, 0.01 mg/kg, IV. Additional physi- l restraint was provided by application of a nose itch. Contact gel[a] was placed on the treatment ea and 2100 pulses (3 bar of pressure at a fre- ency of 8 Hz) were applied to the dorsal surface of C3 on either side of the extensor tendons, using a eumatic shock wave generator[b] and a 15-mm ap- icator. If a bony callus was present, the applica- r was placed over the callus to concentrate energy that area. Otherwise an effort was made to con- ntrate the energy in the areas of fracture identi- d with pre-treatment xeroradiographs. After eatment, the limbs were bandaged for 24 h with a mpression bandage. A total of three treatments ere applied at 2-wk intervals.

Lameness examinations also were performed be- re the second and third treatment sessions. orses were walked during the treatment period nd allowed daily turnout if no lameness was evi- ent. After the third treatment, follow-up xerora- iographs were obtained. Provided no lameness as evident at the time of the third treatment and adiographic evidence of fracture healing was resent, horses were allowed to gallop for 30 days efore a gradual return to regular training. Train- rs were encouraged not to begin speed work (breez- ng) until radiographic examinations indicated mplete healing of fractures, if present. Recom- ended speed work was to begin with short breezes 1/8 mile) once or twice weekly, gradually increasing he breezing distance over a period of 2 mo. Long- erm follow-up information was obtained from tele- hone interviews with trainers, owners, and eferring veterinarians. Descriptive statistics were sed to characterize the case population and a one-way analysis of variance (ANOVA) was used to evaluate the three lameness scores obtained during the treatment period. Race results were obtained from the Jockey Club Information Service, and the Mann-Whitney test was used to compare median earnings/start before and after treatment with RSWT. Statistical significance was set at $p < 0.05$.

3. Results

Fifty Thoroughbred racehorses (30 males and 20 females) were included in this study. The mean age of horses in the study was 2.7 ± 1.0 yr. The grades of DMD present in the horses of this study ranged from grade II to grade V. Four horses had grade II DMD, 22 horses had grade III DMD, 20 horses had grade IV DMD, and 4 horses had grade V DMD. Four horses with bilateral lesions had different grades of DMD in either forelimb. The mean grade of DMD present in these horses was 3.3 ± 0.7. Twenty-five (50%) of these horses had lesions in the left front limb. Eight horses (16%) had lesions in the right front limb, and 17 horses (34%) had lesions in both left and right forelimbs. The duration of clinical signs before treatment of these horses ranged from 8 to 52 wk (mean, 15.1 ± 11.2 wk). The long-term follow-up of the horses in this study ranged from 6 to 27 mo (mean, 13 ± 5.02 mo). The mean lameness grade at time of admission was 0.53 (AAEP scale 1–5). At the time of the second treatment 2 wk later, the mean lameness grade was 0.17. At the time of the final treatment (4 wk after initial treatment), the mean lameness grade was 0.02. These lameness scores were significantly different ($p < 0.0001$).

[redacted] n all 50 horses, the skin surface was warm immediately after treatment. In 15 of 50 horses (30%), subcutaneous edema was present after treatment that resolved within 24 h with compressive bandaging. Treatment with phenylbutazone was needed in one case.

When returned to speed work, 40 of 50 horses (80%) resumed breezing and racing without any recurrence of lameness or clinical signs associated with DMD. Four horses (8%) experienced temporary soreness in the affected shin when returned to breezing, but responded to a temporary reduction in speed work to race without further lameness. Four of 24 horses (17%) with grade IV or grade V injuries (stress fractures) experienced recurrence of the fracture within 9–15 mo after the last RSWT treatment. Two horses in this study died of unrelated causes. One horse was euthanized subsequent to surgery for recurrent colic, and the other was euthanized after developing a humeral stress fracture in the same limb as the DMD.

The mean time from last treatment to first race for horses with grade II lesions (n = 4) was 9 mo. The median earnings/start of these horses before

treatment was $0.00 and was $2718.00 after treatment. The change in earnings/start before and after treatment in horses with grade II lesions was not significant ($p = 0.25$). The mean time from last treatment to first race for horses with grade III lesions ($n = 22$) was 4.5 mo. The median earnings/start of these horses before treatment was $135.00 and was $2543 after treatment. The change in earnings/start before and after treatment in horses with grade III lesions was significant ($p = 0.01$). The mean time from last treatment to first race for horses with grade IV lesions ($n = 20$) was 5 mo. The median earnings/start before treatment was $2373 and was $971 after treatment. The change in earnings/start before and after treatment in horses with grade IV lesions was not significant ($p = 0.73$). The mean time from last treatment to first race for horses with grade V lesions ($n = 4$) was 5 mo. The median earnings/start before treatment was $6636 and was $9504 after treatment. The change in earnings/start before and after treatment in horses with grade V lesions was not significant ($p = 0.88$).

4. Discussion

[redacted] Although a significant decrease in the lameness scores was seen during the treatment period, it is impossible to attribute this observation solely to treatment with RSWT because lameness in horses with DMD will decrease spontaneously when horses are removed from training. Very few of the horses in this study were lame at the time of initial presentation because they had been out of training for a minimum of 8 wk.

As might be expected, the duration of healing of DMD in this group of horses seemed to be proportional to the degree of injury. Twenty-three of 26 horses with grade II or grade III injuries had radiographic evidence of healing within 60 days of treatment. In contrast, only 4 of 24 horses with grade IV or grade V injuries (stress fractures) were healed in that same time period. Most stress fractures healed within 3–5 mo after treatment. As a group, the mean time from last treatment to first race for horses with stress fractures (grades IV and V) was 5.2 mo (±2.17 mo). This interval was considerably shorter than that of the group of Thoroughbreds with stress fractures treated by cortical fenestration and internal fixation (mean of 8 mo to first race).[5] This may have been because of the fact that all of the horses in this study had been previously treated with some other method of treatment before RSWT, and the time interval for that treatment was not included in the calculation.

Comparison of race performance before and after treatment with RSWT indicated that overall these horses returned to the same level of performance as that attained before injury. This finding was consistent with results found in another study of dorsal cortical fractures treated with fenestration and screw fixation.[5] Interestingly, horses with grade III injuries earned significantly more money/start than they did before treatment. This is likely because of the fact that many of these horses became lame during training and were thus unable to race at all before treatment.

[redacted] However, the rate of recurrence of stress fractures (grade IV or V) seen in this group of horses was 4 of 24 (17%). In one survey conducted of racetrack practitioners, the recurrence rate of stress fractures treated with internal fixation was estimated to be 67%.[1] In another study, a retrospective evaluation of the treatment of dorsal cortical fractures with osteostixis found the rate of recurrence to be 4 of 47 horses (8%) that returned to racing, including 2 horses that experienced catastrophic failure of the MC3.[6] In still another study evaluating the treatment of dorsal cortical stress fractures with screw fixation in conjunction with cortical drilling, 2 of 63 (3%) fractures recurred.[5] Variation in the rate of recurrence of stress fractures may reflect a number of factors, including the method of treatment, total time out of training, and more importantly, the quantity and rate of introduction of speed work as the horse is returned to training.

Because all of the horses in this study were previously treated by some other form of therapy, the use of RSWT in this group of horses must be considered an adjunctive treatment for DMD. However, it is noteworthy that none of the horses in this study were able to train successfully before treatment with RSWT. Although none of the horses in this study experienced catastrophic failure of MC3 when returned to racing, owners and trainers must be advised of a potential risk of catastrophic failure of MC3 if horses with DMD are not rested until the fracture is healed, independent of the form of treatment that is administered.

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[a]ESWT Contact Gel; EMS Corporation USA, Dallas, TX 75243.
[b]Swiss DolorClast Vet; EMS Corporation USA, Dallas, TX 75243.

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Exhibit D

RMTC-Corticosteroids and shock wave therapy

News Room 07:13 AM 08-May-2010 NZT

RMTC
Racing Medication & Testing Consortium

Racing Medication and Testing Consortium -

The Racing Medication and Testing Consortium (RMTC) board of directors has approved the funding of Dr. Heather DiMaio Knych and Dr. Mary Robinson for its post-doctoral research fellowship program.

This commitment fulfills one of the main goals of the RMTC Drug Testing Initiatives Task Force, established in 2008 as a wide-ranging effort to improve drug testing and racing integrity.

The RMTC board committed $450,000 over three years toward the fellowship program. The University of California-Davis (UC-Davis) and the University of Pennsylvania have agreed to match the grant.

"This is another major step by the RMTC to implement the recommendations that I made at The Jockey Club Round Table Conference in August 2008 toward an improved drug testing program for U.S. racing," said RMTC Vice Chairman Alan Foreman. "We are beginning the process of developing our next generation of scientific experts in the equine industry who will be working with us on emerging medication problems. We hope the research of Drs. DiMaio Knych and Robinson will help us better regulate corticosteroids and shock wave therapy, which will be a major step in protecting the health and welfare of our equine athletes and the interests of the wagering public."

Corticosteroids and shock wave therapy can have significant analgesic effects and their misuse can put horses and riders at risk during training and racing.

Dr. DiMaio Knych DVM, Ph.D. in Pharmacology and Toxicology, has gained recognition nationally and internationally in the field of equine pharmacology over the past year. She oversees the Kenneth L. Maddy Equine Analytical Chemistry Laboratory's Equine Pharmacology Research Laboratory at UC-Davis and has publishedseveral research paperson pharmacokineticsand pharmacodynamics of drugs in the horse. During the fellowship period, she will research the pharmacokinetics, clinical effects and biomarkers of corticosteroids in horses.

"Dr. DiMaio Knych'sresearch will provide fundamental information that will become textbook material in equine pharmacology," said Dr. Scott Stanley, director of the UC-Davis Kenneth L. Maddy Laboratory.

Dr. Robinson will receive her V.M.D. and Ph.D. in Pharmacological Sciences from the University of Pennsylvania this month. She is graduating from the university's Veterinary Medical Scientist Training Program, which is a seven-year National Institute of Health-sponsored program conducted for outstanding students to acquire a Ph.D. in a basic science discipline and a veterinary degree. Dr.

Robinson will be researching the detection of extracorporeal shock wave therapy usage in the racehorse using biomarkers at the University of Pennsylvania during her fellowship period. The Association of Racing Commissioners International's Model Rules currently prohibit the use of shock wave therapy within 10 days of racing; however, there is no recognized method of detecting its use at this time.

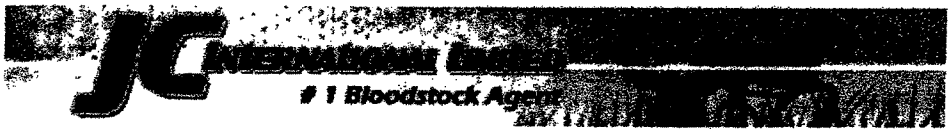
"The purpose of the program at the University of Pennsylvania is to encourage young, well-trained veterinarians to become involved in the racing industry's research and forensic program," said University of Pennsylvania School of Veterinary Medicine professor Dr. Larry Soma.

The RMTC consists of 25 racing industry stakeholders and organizations that represent Thoroughbred, Standardbred, American Quarter Horse and Arabian racing.

The organization works to develop and promote uniform rules, policies and testing standards at the national level; coordinate research and educational programs that seek to ensure the integrity of racing and the health and welfare of racehorses and participants; and protect the interests of the racing public.

For additional information, visit the RMTC website at rmtcnet.com or contact Hallie Lewis, RMTC director of communications, at (859) 224-2848.

Hallie Roach LEWIS



RESEARCH + MEDICATION UPDATE

Exhibit E

RMTC RECOMMENDS NEW PHENYLBUTAZONE THRESHOLD LEVEL, ANNOUNCES LAUNCH OF RECENT RULINGS DATABASE

Based on the recommendation of its Scientific Advisory Committee, the Racing Medication and Testing Consortium (RMTC) board of directors has revised its recommended threshold for the non-steroidal anti-inflammatory drug (NSAID) phenylbutazone from 5 micrograms per milliliter to 2 micrograms per milliliter of plasma or serum. Under the current model rule, one of three approved NSAIDs is permitted at least 24 hours prior to racing. The permitted NSAIDs are phenylbutazone, flunixin and ketoprofen.

"This action was taken in response to concerns expressed by the regulatory veterinary community regarding the effects of NSAID administration on pre-race examinations," said Dr. Rick Arthur, chair of the RMTC Scientific Advisory Committee and equine medical director for the California Horse Racing Board (CHRB). "The committee felt that the regulatory veterinarians' concerns that NSAID levels may compromise pre-race examinations were justified."

The Scientific Advisory Committee will continue to research whether further restrictions on NSAID use are warranted.

The board made this recommendation at its meeting in Lexington, Kentucky, on April 12, 2010, held in conjunction with the Association of Racing Commissioners International 2010 Annual Conference.

Also during the board meeting, RMTC Director of Communications Hallie Lewis announced the creation of a Recent Rulings Database to go live immediately on www.rmtcnet.com.

"I am excited about this project because I believe it fulfills a need in the industry," said RMTC Executive Director Dr. Scot Waterman. "Members of HANA (Horseplayers Association of North America), racing fans and participants have voiced their desire for transparency and easy-to-access data on drug-related rulings. To our knowledge, this is the only database in existence that allows viewers to see not only the infractions but also a description of the possible uses and effects of the drug in the horse. We hope that this will begin the process of better clarifying the difference between medication management mistakes and more serious drug violations."

[redacted]

Dr. Waterman announced that negotiations are close to completion to begin the External Quality Assurance Program through an independent third-party provider. Once initiated, the program will provide proficiency, providing masked and double-masked urine and blood samples for participating testing laboratories to analyze for the presence and quantity of prohibited and regulated drugs.

According to Dr. Waterman, "This is the first step in implementing the RMTC Drug Testing Initiative. We expect to have a full external quality assurance program up and running in 2011."

In the interim, the Testing Integrity Program Inc. and the Interstate Drug Testing Alliance will continue their single- and double-masked sample programs with RMTC subsidization.

Dr. Scott Stanley, director of the University of California-Davis Kenneth L. Maddy Laboratory, presented a report on the CHRB frozen sample and retrospective testing program for growth hormone. This program, based on methods published by LCH, the French racing laboratory, retrospectively tested 2,000 samples that have been frozen over the past two years under the CHRB's drug testing program. The growth hormone analysis of the CHRB's frozen sample program was made possible by funds provided by The Jockey Club.

In other RMTC business:

- A strategic plan was adopted that outlines research, reorganization and regulatory communications as key areas of focus in the organization's future.
- An update was given on the current research strategies involving the intra-articular administration of corticosteroids.
- An update on the efforts toward international harmonization of racing medications was given, including the steps undertaken to exchange research data.
- RMTC will create a committee to confront regulation issues and encourage uniformity across racing jurisdictions regarding policy language on out-of-competition testing.
- Current RMTC officers Dr. Scot Waterman, Dr. Robert Lewis, Alan Foreman, Chris Scherf, Dr. Rick Arthur and Tom Charters were re-elected to serve another term.
- It was announced that RMTC CEO Dan Fick has stepped down to focus on his new position as a steward for the Indiana Racing Commission.

"On behalf of the board of directors, I would like to give a heartfelt thank-you to Dan for his tireless efforts to move this organization forward over the last several years. His commitment and dedication were truly remarkable, and we wish him the best in his future endeavors," said RMTC Chairman Dr. Robert Lewis.

From: The Horsemen's Journal

15 NEW EQUINE PROJECTS LAUNCHED BY GRAYSON-JOCKEY CLUB RESEARCH FOUNDATION

Fifteen new research projects to benefit the horse will be launched this year through funding from the Grayson-Jockey Club Research Foundation. In addition, four other projects begun in 2009 will be funded in their second and concluding year, with a total allocation of $889,697 for the 19 projects.

The new projects will address a wide range of problems and conditions that affect a large number of horses. Some are specific to the racehorse, including work by Dr. Sue Stover and Dr. Mont Hubbard at the University of California-Davis. They will be continuing work on validating a laboratory process for evaluating racetrack materials with the aim of maximizing safety.

Another racetrack-related project will be conducted at Canada's University of Guelph by Dr. Jeffrey Thomason, whose team will be analyzing the effects on horses' hooves of different degrees of racetrack banking. Horses will be trained both clockwise and counter-clockwise during the study. Dr. Thomason's project was selected to receive the 2010 Elastikon™ Equine Research Award, which is funded in part by a donation to the foundation from the Consumer Products Division of Johnson & Johnson, manufacturer of Elastikon tape and other equine products.

Other subjects addressed by the new projects include equine herpesvirus-1, bone regeneration utilizing adult stem cells, protection against endotoxemia, equine botulism, and early fetal loss.

The total funding for 2010 includes $97,431 allocated by the National Thoroughbred Racing Association Charities–Barbaro Memorial Fund, which stresses laminitis research and is named in honor of the 2006 Kentucky Derby winner that succumbed to laminitis eight months after surgery to repair leg fractures. The Grayson-Jockey Club Research Foundation provided evaluation of projects for the NTRA Charities–Barbaro Memorial Fund.

One of the laminitis projects to be funded this year will be conducted by Dr. Dean Richardson, who headed the team that repaired Barbaro's original injury and valiantly strived to save him. Dr. Richardson, of the University of Pennsylvania's New Bolton Center, will be seeking to develop a gene therapy approach to prevent laminitis in the contralateral hoof when a horse is being treated for musculoskeletal injury. The other laminitis project will be conducted at the University of Tennessee by Dr. Nicholas Frank, who will be following up on evidence linking endotoxin and the onset of laminitis.

In addition, Catherine Radcliffe Hackett of Cornell University has been selected as the winner of the Storm Cat Career Development Award. The award is presented to a young scientist with an interest in potentially pursuing a career in equine research and is funded by Mrs. Lucy Young Hamilton, a member of the Grayson-Jockey Club Research Foundation board of directors. The $15,000 award is named in honor of the leading stallion Storm Cat, which stood at the Overbrook Farm owned by Mrs. Hamilton's family. The Storm Cat Award has been presented for five years, and the first three recipients are now employed at universities in equine research. The 2009 winner, Dr. Melissa King, is completing her studies.

Radcliffe will be working on stem cell research under the tutelage of Dr. Lisa Fortier, a distinguished researcher, recipient of multiple Grayson-Jockey Club Research Foundation grants, and a former member of the foundation's Research Advisory Committee.

The new projects being funded were evaluated as the best of some 60 proposals received by Grayson-Jockey Club Research Foundation. All proposals are evaluated by the Research Advisory Committee, which recommends to the board of directors which ones should be funded. The board met recently to authorize the funding, and the 2010 allocation brings the total number of projects funded since 1983 to 260 projects at three dozen universities for $17.1 million, exclusive of the NTRA Charities' funds and Storm Cat awards.

Descriptions of the new projects are available on the foundation's website, www.grayson-jockeyclub.org.

EASTERN TENT CATERPILLAR NUMBERS UP AGAIN

By Holly Weimers, University of Kentucky

Experts report that eastern tent caterpillar numbers are up for the third consecutive year, although populations vary from location to location.

According to Lee Townsend, University of Kentucky College of Agriculture entomologist, March was the time to check wild cherry and related trees for eastern tent caterpillar activity to determine whether management was necessary.

"The tents are easy to see now," he said. "Many of the small nests out on limbs have been abandoned because caterpillars have moved to larger tents at branch angles on the main trunks."

Entomologists anticipated full-grown larvae by the third

Exhibit F

ffeine and Theobromine Identifications in Post-ce Urines: Threshold Levels and Regulatory nificance of Such Identifications

Budhraja, BVSc, AH; Fernanda C. Camargo, DVM, PhD;
lie Hughes, BS, MS; Andreas F. Lehner, BS, MS, PhD; Kent Stirling, BBA;
Brennan, BSc; Mark Dowling, BSc; and
nas Tobin, MVB, MSc, PhD, MRCVS, Diplomate ABT*

Caffeine is a widespread environmental substance, and testing for caffeine is now highly sensitive. Currently, many authorities in North America are not concerned about plasma caffeine concentrations of <100 ng/ml, equivalent to ~300 ng/ml in urine. This is because such low caffeine concentrations are likely to be associated with environmental exposure to caffeine and are also unlikely to be associated with pharmacological responses. Authors' addresses: Graduate Center for Toxicology, Health Sciences Research Building, University of Kentucky, Lexington, KY 40536 (Budhraja); Maxwell Gluck Equine Research Center, Farm Lane and Nicholasville Road, University of Kentucky, Lexington, KY 40546 (Camargo, Hughes, Tobin); U.K. Livestock Disease Diagnostic Center, 1490 Bull Lea Road, Lexington, KY 40512 (Lehner); Florida Horsemen's Benevolent and Protective Association, PO Box 1808 Calder race course, Opa-Locka, FL 33056 (Stirling); and Connolly's Redmills, Goresbridge, Kilkenny, Ireland (Brennan, Dowling); e-mail: ttobin@uky.edu (Tobin). ©2007 AAEP. *Presenting author.

roduction

ine and theobromine are commonly found in e feeds and environments. They are well bed and may appear at microgram concenns in equine blood and urine; enzyme-linked nosorbent assay (ELISA) tests can detect anogram per milliliter (ppb) concentrations. efore, low-concentration identifications of caf- and theobromine are not unusual and are likely caused by environmental exposure or

Between 2000 and 2006, ~67 caffeine "pos-" were called in the United States, and 2 called in Canada.

In horses, caffeine is metabolized to theophylline, theobromine, and paraxanthine. These metabolites are excreted at high concentrations in equine urine. Caffeine identifications in the absence of these metabolites suggest post-collection entry of caffeine into the sample.

Behavioral studies suggest that performance-threshold plasma and urinary concentrations of caffeine are ~2000 and 10,000 ng/ml, respectively. Regulatory thresholds or "cut-offs" for caffeine and theobromine are in place in a number of jurisdictions worldwide. For caffeine, reported "cut-offs" vary from 10 ng/ml in plasma to 1000 ng/ml in urine.

threshold:

s RMTC ARCI cut off 100 ng/ml in plasma - = 300 ng/ml serum.
12,000 ng/ml urine (Human Olympic

ses - plasma values -
lasma values are considered
the same as serum values

Theobromine is both a metabolite of caffeine and a medication in its own right. Theobromine is also a common component of equine feed, and there is a long established international threshold of 2000 ng/ml in urine of theobromine, although this threshold may be relatively conservative.

Theophylline is another metabolite of caffeine and a therapeutic medication in its own right. The Canadian urinary "withdrawal time" for theophylline is 96 h after therapeutic administration. The equivalent urinary cut-off seems to be ~1000 ng/ml.

2. Background

Caffeine is a central nervous-system stimulant and the most widely consumed psychoactive substance in the world. In humans, caffeine-containing beverages, at a dose rate of ~80–200 mg per cup of coffee[1,2] (special coffee brands may contain higher amounts), ward off drowsiness and restore alertness. Common human beverages containing caffeine include coffee, tea, soft drinks, and especially, "energy drinks."[1–3]

In nature, caffeine is a plant alkaloid that functions as a natural pesticide against insect predators. The most widely cultivated caffeine-containing plants are Coffea arabica (coffee), Camellia sinensis (tea), and to a lesser extent, Theobroma cacao (Cocoa). The primary source of caffeine is the coffee bean. The coffee plant is native to Africa. It was first introduced to Europe in about 1600 A.D., and the first cup of coffee consumed in England was in Balliol College, Oxford in 1637.[1] Tea is another common source of caffeine. The tea plant is originally native to Burma, reaching China by 300 A.D. and Japan by 1000 A.D.. In Europe, tea arrived as a medicinal in 1500 A.D. and became a common beverage by 1600 A.D.

Caffeine is now inextricably associated with humans and can be found in many unexpected places. For example, bee pollen has been found to contain sufficient caffeine to trigger "positive" identifications in racing dogs and horses in Florida in the 1990s.

3. General Pharmacology

In humans, caffeine is a central nervous-system and metabolic stimulant and is widely used to restore mental alertness and alleviate physical fatigue. Caffeine produces these effects by virtue of its purine structure acting on some of the same receptors as adenosine-related nucleosides and nucleotides, such as the cell surface G protein-coupled receptors (GPCRs) as well as the intracellular ryanodine receptor (RyR).[1] Physiologically, however, caffeine's action is unlikely to be caused by increased RyR opening, since this would likely require a lethal plasma concentration of caffeine; as such, its effects are most likely due to its actions on adenosine receptors.

After oral administration, caffeine is rapidly and completely absorbed from the stomach and small intestine and distributed to all tissues of the body.

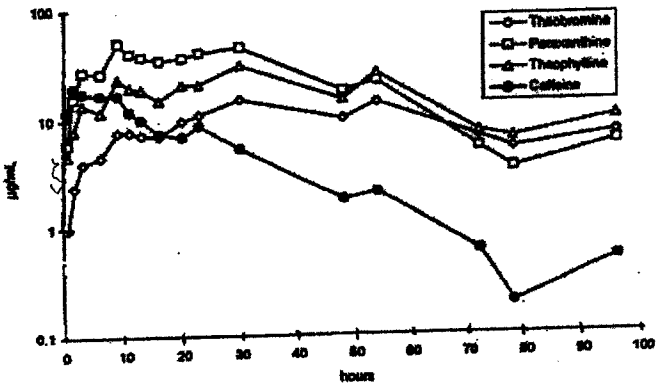


Fig. 1. Urinary concentrations of caffeine and its metabolites after administration of 2 g of caffeine orally to a horse. Reproduced with permission from the Canadian Pari-Mutuel Agency's *Analytical Methodology for Detection and Confirmation of Drugs in Body Fluids*, vol. 2.

Its actions are largely terminated by metabolism, and the decline of plasma concentrations follows simple first-order kinetics.[1,3] In the horse, the plasma half-life of caffeine is relatively long (~19 h).[4,5]

Caffeine in the Horse

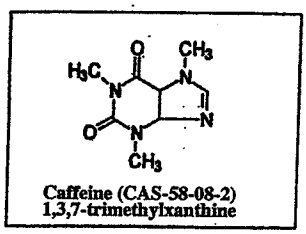
Caffeine, at doses of up to 2 g/day, seems to produce broadly similar pharmacological affects in horses and humans. Orally administered caffeine is well absorbed, and urinary concentrations peak at ~21,000 ng/ml at ~1 h post-administration; it then declines to 1000 ng/ml at 96 h post-administration. Of considerable forensic significance, the concentrations of its metabolites, paraxanthine, theophylline, and theobromine, are always higher than those of caffeine by 24 h after administration and at least 10-fold higher at 96 h post-administration (Fig. 1).[6]

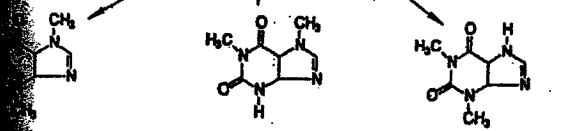
Caffeine and Its Metabolites in the Horse

Caffeine, a trimethylxanthine, is metabolized in the liver to yield three dimethylxanthines (Fig. 2), and each of these metabolites has a different spectrum of pharmacological effects on the body. Theophylline (1,3-dimethylxanthine) is a bronchodilator; theobromine (3,7-dimethylxanthine) is a less potent diuretic, but there are no reports of significant pharmacological activity for paraxanthine (1,7-dimethylxanthine).

4. Sensitivity of ELISA Testing for Caffeine, Theophylline, and Theobromine

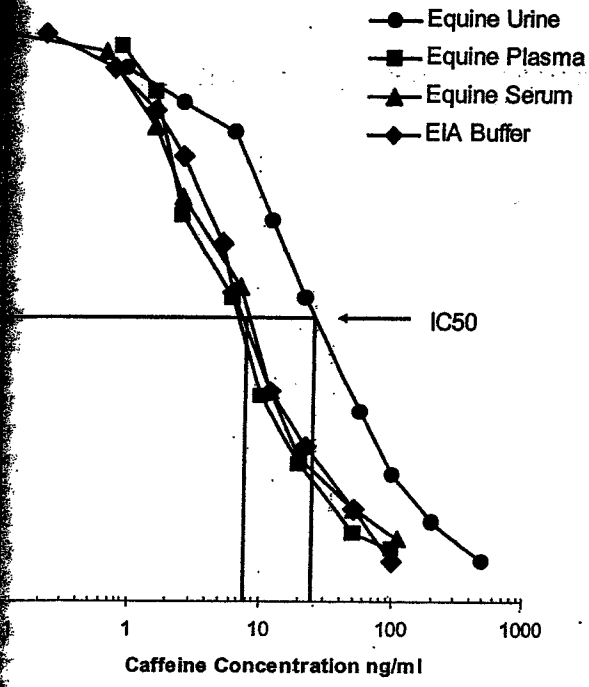
Routine post-race testing for these agents is now highly sensitive. Commercially available ELISA tests have an I-50 of about 10 ng/ml for caffeine; as such, a 1 mg/horse dose of caffeine has the potential to give rise to detectable (10 ng/ml) plasma and urinary concentrations of caffeine. The IC-50s (i.e., the concentrations for one-half maximal inhibition of the tests) are caffeine at 10 ng/ml, theophylline at 7 ng/ml, and theobromine at 25 ng/ml (Figs. 3 and





Chemical structures of caffeine and its metabo-
te that caffeine has three methyl groups, and its me-
have two methyl groups each.

eview of the urinary excretion concentrations
agents after the administration of pharma-
lly effective doses shows that concentrations
low μg/ml range (1000 ng/ml) are readily
l urinary concentrations of these substances.
findings give rise to the following general
es with reference to caffeine. If the concen-
is <100 ng/ml in plasma or 300 ng/ml in
the finding is pharmacologically ineffective
no forensic interest; if the expected metabo-



ELISA standard curves for caffeine in several equine
s, such as urine, plasma and serum and also, in EIA
The IC-50 represents the sensitivity of the test, which is
ng/ml for serum and plasma and ~10–20 ng/ml for equine
Adapted with permission from Neogen Corp.

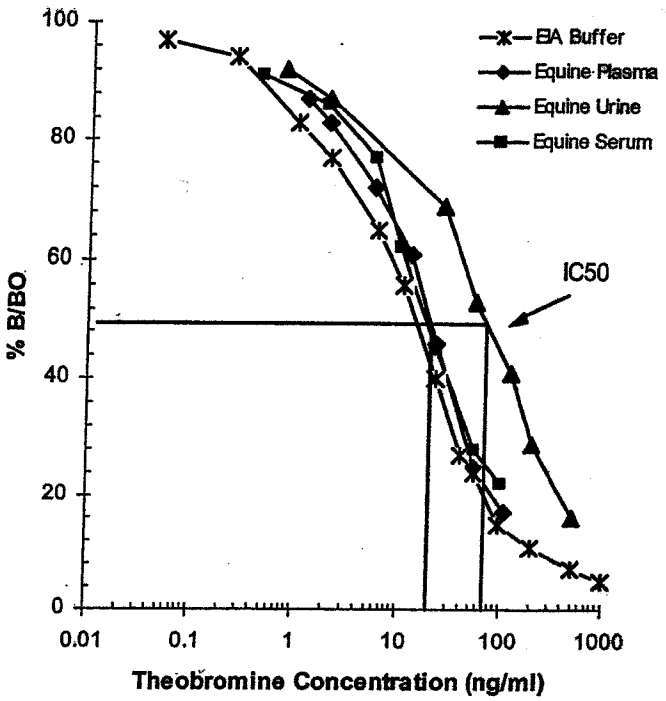


Fig. 4. ELISA standard curves for theobromine in several equine matrixes, such as urine, plasma, and serum and also, in EIA buffer. The IC-50 represents the sensitivity of the test, which is ~20 ng/ml for serum and plasma and ~70 ng/ml for equine urine. Adapted with permission from Neogen Corp.

lites of caffeine, theophylline, theobromine, and paraxanthine are not present, then it is unlikely that the caffeine in question "passed through the horse." Therefore, the caffeine identification is most likely caused by post-collection contamination, which is also the case if caffeine is not detectable in the blood.

With respect to post-collection contamination, caffeine may be present in unexpected places, including as a "binder" in pH test strips. In Australia ~20 yr ago, a laboratory was testing the pH of post-race urine samples by dipping pH strips into the urine samples, a violation of good laboratory procedure. The strips' caffeine binder contaminated many samples. This matter was eventually sorted out but not before a very large number of caffeine identifications were made and called in the absence of any metabolite or blood-caffeine information.[8]

Finally, these data also show a considerable reserve of detection sensitivity with regard to concentrations of these agents likely to be found in association with pharmacological administrations. As such, there is a clear need for "limitations" on the sensitivity of testing for these agents, and indeed, the first international horse-racing "threshold" ever introduced was for theobromine in horse urine.

5. Theobromine

The caffeine metabolite theobromine is also a plant alkaloid and a medication in its own right. Theobromine is commonly found in cocoa plants and as

such, is a common trace component of horse feed.[9] Like caffeine, theobromine is well absorbed orally and is excreted at high concentrations in equine urine. The first international regulatory threshold in racing for a pharmacologically active "foreign" substance was for theobromine, which was introduced by the English Jockey Club.[a10]

In England and Ireland in the early 1980s, numerous "positives" were being reported for theobromine, resulting from exposure of horses to small amounts of theobromine associated with cocoa husk in horse feeds. Reviewing this matter, the approach of eliminating traces of cocoa husk from horse feed was considered impractical, and a regulatory threshold or "reporting level" for theobromine in horse urine[b] was designated. In 1987, this first regulatory threshold of 2000 ng/ml of theobromine in urine was introduced,[9,10] although it was apparently based on data from experiments in only three horses. This threshold has since been adopted internationally.

Although seemingly generous, this regulatory threshold for theobromine may, in fact, be conservative. In an incident in the United States in the late 1990s, a high-concentration urinary theobromine identification was claimed by the trainer to be associated with the daily feeding of small numbers of chocolate-covered peanuts to the horse in question. Addressing this circumstance, one author (KS) organized the administration of chocolate-covered peanuts to test horses, 20/day for 8 days. These horses then duly produced urinary theobromine concentrations of as much as 12,000 ng/ml.[11] Clearly, exposure to relatively small amounts of theobromine can readily give rise to very substantial urinary concentrations of theobromine.

Although the urinary concentrations of theobromine reported are apparently large, administering 20 chocolate-covered peanuts/horse/day is, on a weight basis, equivalent to a human consuming ~1.5 chocolate covered peanuts/day, hardly a major "illicit medication" concern.

Therefore, the theobromine international threshold, although well established and long standing, is apparently extremely conservative and is also based on data from only three horses.

6. Regulatory Thresholds for Caffeine

Because caffeine is a well-recognized environmental substance, a number of thresholds for caffeine are now in place throughout the world. One of the longer standing and also one of the lowest reported regulatory thresholds for caffeine is 10 ng/ml in plasma, which is equivalent to ~30 ng/ml in urine (the Hong Kong Jockey Club and the Jockey Club Brasileiro). These are extremely conservative thresholds, approximately equivalent to the ELISA limits of detection (LODs) for caffeine.

In reviewing Table 1 of world regulatory thresholds for caffeine, it will be helpful to keep in mind that caffeine is extremely unusual in that there seems to be a relatively constant relationship between plasma and urinary concentrations of caffeine,[12] and the ratio is about three parts of caffeine in urine to one part in plasma. Table 1 presents the list of current published regulatory thresholds for caffeine in plasma and urine that are available to us.

Table 1. World Thresholds for Caffeine

Authority	Threshold	Matrix
Hong Kong Jockey Club	10 ng/ml	Plasma
Jockey Club Brasileiro	30 ng/ml	Plasma
Ohio	100 ng/ml	Urine
Washington	100 ng/ml	Plasma
New Jersey	100 ng/ml	Plasma
Louisiana	100 ng/ml urine	or 25 ng/ml blood
Florida	200 ng/ml	Urine
RMTC* (urine)	100 ng/ml plasma	Equivalent to 300 ng/ml
TOBA† (urine)	100 ng/ml plasma	Equivalent to 300 ng/ml
Canada	1,000 ng/ml urine	Published research

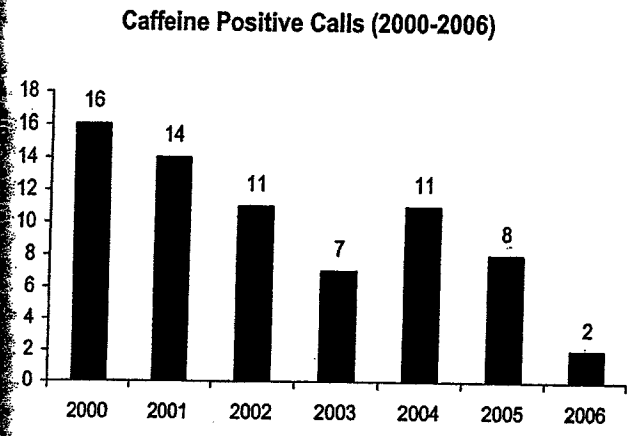
* Racing and Medication Testing Consortium.
† Thoroughbred Owners and Breeders Association.

In 1999, Ohio introduced a threshold of 100 ng/ml in urine for caffeine, and Florida currently has in place a 200 ng/ml threshold in urine.[13] Each of these thresholds is more conservative than the official Racing and Medication Testing Consortium (RMTC) threshold for caffeine of 100 ng/ml in plasma, which is equivalent to 300 ng/ml in urine. Similarly, 100 ng/ml plasma thresholds for caffeine are in place in Washington State and New Jersey, and the Thoroughbred Owners and Breeders Association (TOBA) "suggested minimum level of detection" for caffeine is set at 100 ng/ml in plasma.[14] Many of these thresholds are presented in the 2003 National Horsemen's Benevolent and Protective Association's "Proposed National Policy of Drug Testing and Therapeutic Medication."[15]

However, published research from Canadian sources suggest a Canadian threshold in urine of ~1000 ng/ml of caffeine, which may seem high until one considers the Canadian data presented previously.[6] Additionally, research presented by our colleague, Professor Tony Queiroz-Neto, on the minimum plasma concentrations of caffeine required for behavioral stimulation[16] (i.e., a "no-effect threshold" or NET) suggests that concentrations >2000 ng/ml of caffeine in plasma or 10,000 ng/ml in urine are required before any pharmacological effects are observed.

In good agreement with the research of our colleague, Professor Tony Queiroz-Neto, the human Olympic "threshold" for caffeine is 12,000 ng/ml in urine, a threshold that apparently recognizes the widespread social use of caffeine in humans.

In view of the above references and "thresholds" for caffeine, we will now review the number of pos-

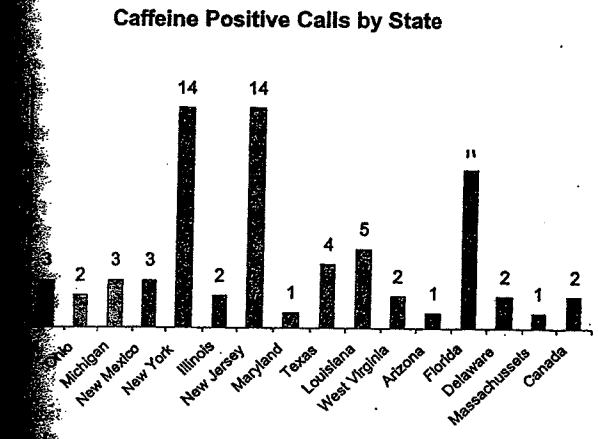


5. Number of caffeine identifications between the years 0 and 2006.

e calls for caffeine and its metabolites in horse ng in the United States between the years 2000 2006 courtesy of the Association of Racing Com- sioners International (Figs. 5–7).

nce 2000 (Fig. 5), the number of caffeine identi- ions in North America dropped from 16 in the r 2000 to 2 in the year 2006, which is a large ction in the number of reported caffeine identi- ions. Review of the distribution of positive by state (Fig. 6) shows that New York and New ey led in the number of identifications with 14 , and Florida had 10 positive calls, providing t one-half of the total number of caffeine iden- tions. Outside these states, however, the bers of identifications were small: five in Lou- a, four in Texas, and less than three in each of emaining American states and Canada.

er the publication of a 2002 University of Flor- port on caffeine (Fig. 7),[13] there has not been a ted caffeine identification in that jurisdiction. suggests that at least some of the previous ifications may have been low-concentration ifications.



positive caffeine identifications distributed by state be- years 2000 and 2006.

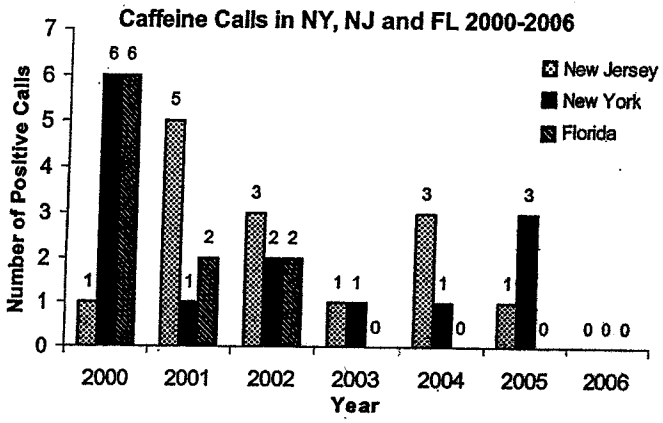


Fig. 7. RCI-positive calls for caffeine in 2000–2006 for the states of New Jersey, New York, and Florida. The "positive" identifications that were reported in Florida were between 2000 and 2002, after which Florida reported a 200 ng/ml urine threshold; subsequent to this, there have been no "positive" calls for caffeine in Florida through September of 2006.

7. Theophylline

Theophylline is probably the most pharmacologically active of the methylxanthines, and it is widely used as a bronchodilator in horses and humans.[17] It is generally recognized as a therapeutic agent in horses, and judging by its inclusion as a "withdrawal-time substance" in the Canadian schedule of drugs, theophylline is also recognized in Canada as a therapeutic medication, (i.e., a medication appropriate for use in horses in training but not at pharmacologically effective concentrations in racing horses). Published Canadian information[18] (Fig. 8) suggests a 96-h "detection time" for theophylline in the horse, and a review of the Canadian data showed that when theophylline was administered at a dose

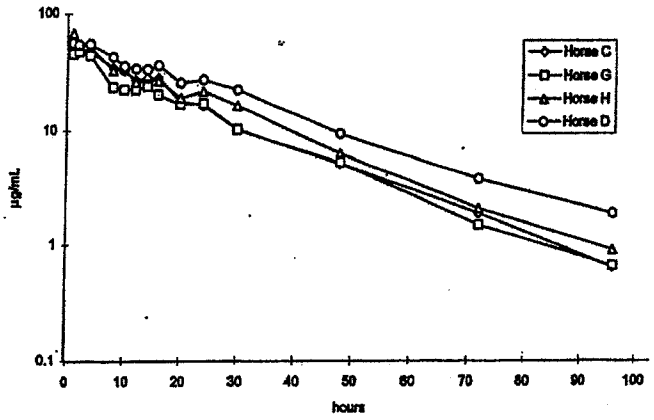


Fig. 8. Urinary theophylline concentrations after 1.5 g of IV theophylline administration. Note the very high urinary concentrations, 80,000 ng/ml of theophylline, and its long plasma half-life, which yield concentrations of >1000 ng/ml in urine at 96 h. Reproduced with permission from the Canadian Pari-Mutuel Agency's *Analytical Methodology for Detection and Confirmation of Drugs in Body Fluids*, vol. 2.

of 1.5 g/horse IV, the peak urinary concentrations were as high as 80,000 ng/ml in urine with a detection time of 96 h, which is approximately the equivalent to a "cut-off" for urinary theophylline of >1000 ng/ml. More recently (March of 2007) in the United States, the RMTC reported a "withdrawal time" for theophylline in Indiana of 120 h.[19]

8. Conclusion

Caffeine is inextricably associated with the presence of humans. Domestic horses are, therefore, inevitably exposed to varying concentrations of caffeine. Caffeine identifications in horse urines have been associated with a variety of sources, including the feeding of caffeine-containing bee pollen and the inappropriate use of caffeine-containing pH strips. If the concentration of caffeine reported is <100 ng/ml in plasma or 300 ng/ml in urine, there is little need for regulatory review. Behavioral data suggests that performance effects require caffeine concentrations of >2000 ng/ml in plasma or 10,000 ng/ml in urine; lesser concentrations are unlikely to be pharmacologically significant. Finally, any caffeine, theophylline, or theobromine identification should include full evaluation of all available scientific evidence for data suggesting innocent, inadvertent, or atypical sources associated with human activity.

We would like to gratefully acknowledge the Canadian Pari-Mutuel Agency for permission to reproduce Figs. 1 and 6, which were published in *Analytical Methodology for Detection and Confirmation of Drugs in Body Fluids*, Vol. 2. We also gratefully acknowledge the assistance of the Association of Racing Commissioners International (ARCI) and Mr. Ed Martin, Mr. Kevin Crum, and Ms. Eva Waters for the data presented in figures 5, 6, and 7. This study would not have been possible without the support of the following Horsemen's Benevolent and Protective Associations: Alabama; Arizona; Arkansas; Canada; Charles Town, WV; Florida; Iowa; Kentucky; Louisiana; Michigan; Minnesota; National; Nebraska; Ohio; Oklahoma; Ontario, Canada; Oregon; Pennsylvania; Tampa Bay Downs, FL; Texas; Washington State; and West Virginia. We would also like to thank The Maxwell H. Gluck Fellowship in Equine Veterinary Science (author FC). This article was published as #363 in the Equine Pharmacology, Therapeutics, and Toxicology Program at the Maxwell H. Gluck Equine Research Center and Department of Veterinary Science at the University of Kentucky. This article was also published as Kentucky Agricultural Experiment Station Article 07-14-032 with the approval of the Dean and the Director of the College of Agriculture and the Kentucky Agricultural Experiment Station.

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19. Author: Racing Medication and Testing Consortium (RMTC RMTCNET.com. Available online at http://www.rmtcne .com/content.asp?whatpage = withdrawl _show. Accesse on March 1, 2007.

[a]The Jockey Club London Telex. Personal communication. 198
[b]Connolly WV and Connolly J. Personal communication. 2007.

Exhibit G

ace" Benzoylecgonine Identifications in Post-ce Urines: Probable Sources and Regulatory nificance of Such Identifications

nda C. Camargo, DVM; Charlie Hughes, BS, MS;
as F. Lehner, BS, MS, PhD; Kent Stirling, BBA; and
s Tobin, MVB, MSc, PhD, MRCVS, DABT

Cocaine is an environmental contaminant in North America. Benzoylecgonine (BZE) is the major urinary metabolite of cocaine in horses and humans, and urinary detection of BZE is highly sensitive. Human workplace drug testing typically uses a confirmatory "cutoff" for BZE of 150 ng/ml in urine. A number of horse-racing jurisdictions have adopted similar urinary "cutoffs" for BZE; this communication presents the scientific basis for these cutoffs and lists jurisdictions with urinary cutoffs for BZE. Authors' addresses: Maxwell Gluck Equine Research Center, University of Kentucky, Lexington, KY 40546 (Camargo, Hughes, Tobin); UK Livestock Disease Diagnostic Center, Lexington, KY 40511 (Lehner); and Florida's Horsemen's Benevolent and Protective Association, Opa Locka, FL 33056 (Stirling); e-mail: fccama2@uky.edu (Camargo). © 2006 AAEP.

tion

nine (BZE), the major urinary metabolite horses, is often identified and "called" at concentrations in post-race urines. This rth the relationship between such trace-ations of BZE and the status of cocaine as environmental contaminant.

ted States, paper currency is commonly taminated with cocaine. In one study bills, 79% yielded readily detectable carried microgram amounts, and 1.3 vered from one bill.

he presence of cocaine in the environ-workplace drug testing uses cutoffs or signed to exclude BZE identifications nnocent environmental contamination. These cutoffs are 300 ng/ml in screening tests and 150 ng/ml in confirmation tests; results below these cutoffs are not "reported out" forensically.

In horses, a 1-mg dose of cocaine may yield ≤100 ng/ml of urinary BZE. Because 1 mg of cocaine is unable to produce a pharmacological effect in a horse, there is no pharmacological or performance rationale for calling BZE concentrations of ≤100 ng/ml in horse urines.

Cocaine introduced directly into horse urine spontaneously hydrolyzes to BZE, whereas urine containing BZE that passed "through the horse" will contain other specific metabolites, including Ecgonine Methyl Ester (EME), para-hydroxy-BZE, and norcocaine. Because BZE alone in a urine sample can result from post-collection contamination, urinary identifications of BZE alone should be treated with caution.

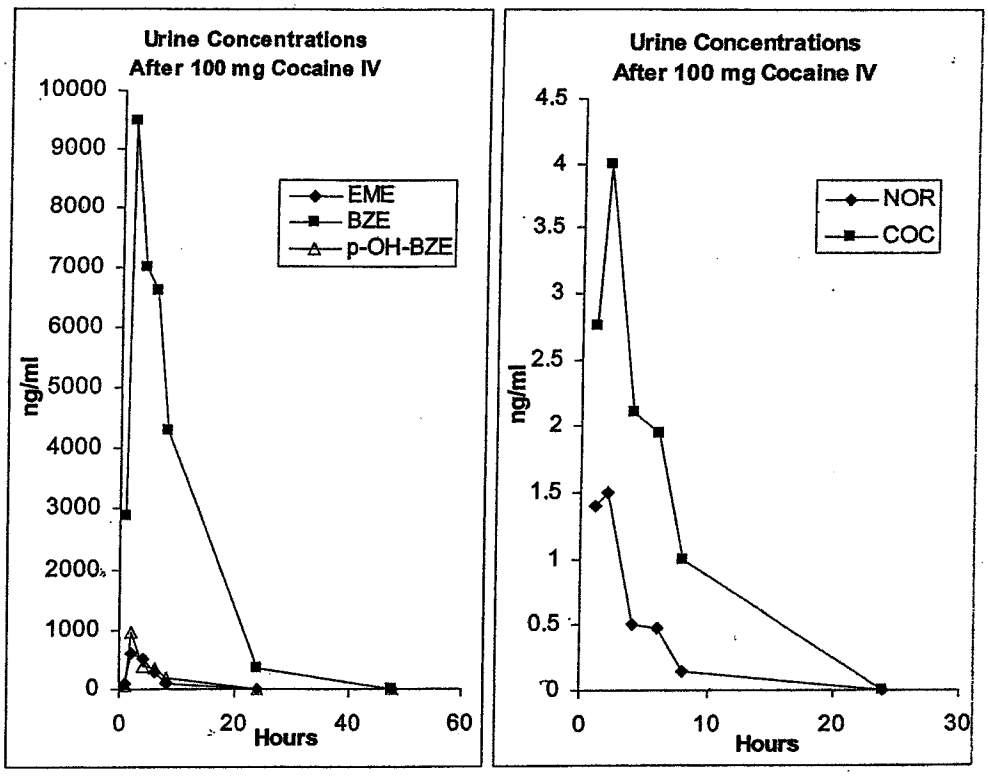


Fig. 1. Urinary concentrations of BZE, para-hydroxy-BZE, EME (left panel), cocaine, and norcocaine (right panel, axis) after IV administration of 100 mg of cocaine to one horse. In horses, 200 mg/horse of cocaine intravenously ha to cause a performance-enhancing effect in treadmill studies, whereas a 50-mg dose produced no measurable effects

Many racing jurisdictions now have regulatory cutoffs for BZE in post-race urine of 50–150 ng/ml, supporting the above interpretations and consistency with practice in human forensics.

2. Background

The goal of this report is to review the relationship between trace-level identifications of BZE in equine urine and the status of cocaine as an environmental contaminant. BZE is the major urinary metabolite of cocaine in horses, and a frequent Association of Racing Commissioners International (ARCI) Class 1 identification in post-race urines. This report will outline what we know about BZE in horses so that we may better understand the regulatory significance of trace-level identifications of BZE in post-race urines.

A trace-level identification is identification at a concentration below those associated with pharmacological or performance effects. In this regard, a finding of BZE in a post-race urine creates the presumption that the horse was exposed to cocaine; what is not generally appreciated is how little cocaine is needed to produce such a BZE identification and how widely these small amounts of cocaine are distributed.

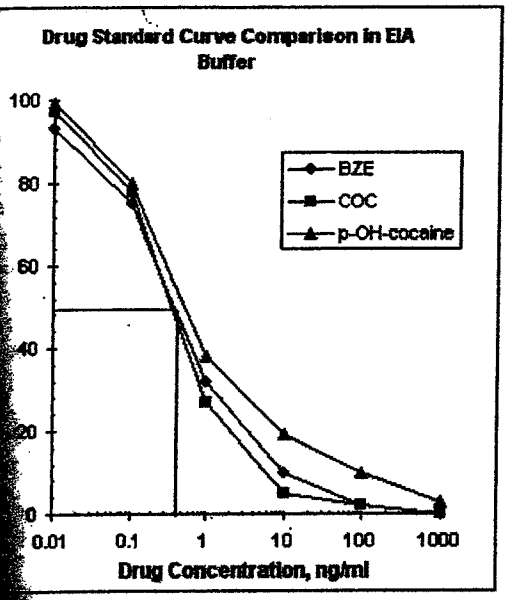
3. Horses, Cocaine, and Urinary BZE

BZE is the principal metabolite of cocaine found in horse urine along with other metabolites. Figure 1 shows the observed concentrations of para-hydroxy-BZE, cocaine, and norco administration of 100 mg of cocaine At 1 h post-administration, the urina tion of BZE was ~9200 ng/ml, and t tions of EME and para-hydroxy-BZE ng/ml; the peak concentration of coca 4.0 ng/ml.[1] In round figures, the uri tration of the metabolite BZE was greater than the urinary concentration rather significant difference (Fig. 1).

4. BZE: A Highly Efficient Urinary Biom Cocaine Exposure

BZE is a highly efficient urinary "biom caine exposure, because BZE is chemi in that it carries two electrical charges and one negative, at normal pH value cal terms, this means that BZE is h trated in horse urine at all urinary BZE is, therefore, an exceptionally sens biomarker of exposure to cocaine, an animals or humans to very small amou give rise to relatively high urinary con BZE.

An equally important factor is that en immunosorbent assay (ELISA) tests highly sensitive and are able to detect trations of <0.5 ng/ml. The amount o quired to produce a 20 ng/ml BZE con



SA test for cocaine and BZE. IC_{50}, or the concen-sary to produce 50% of inhibition and thus the sen-he test, for BZE is ~0.5 ng/ml. (Figure adapted eogen Corp.)

he is ~0.2 mg. A human recreational ine is ~50–100 mg; given the sensitivity esting, equine exposure to 0.2 mg (1/200 n dose) of cocaine has the potential to -ng/ml trace-level BZE identification in rine sample (Fig. 2).[1]

t with this scenario, when highly sensi-oassay screening was introduced into sting in California, the immediate out-number of low-level BZE identifications s, some of which were conditioned by essful and respected trainers.[2] Since become clear that low-concentration fications are an expected outcome of ive immunoassay-based testing of post-amples for cocaine/BZE in the United

these matters, Kollias-Baker[3] noted amounts of cocaine, sufficient to yield inary concentrations of BZE for at least exposure, "could easily be transferred e abuser's hands to the mouth or muz-" and yield concentrations similar to e occasionally found in urine samples show and race horses." Consistent terpretations, Waterman[4] of the Rac-n and Testing Consortium notes that of cocaine in a horse's blood or urine is that somebody is trying to fix a race, amounts of cocaine could be spread by with human users."

caine by casual contact is consistent that it is readily absorbed through . Dermal and mucosal exposures of horses may result in the presence of cocaine metabolites in urine. This is important, because, if any handler of a horse is exposed to cocaine, he/she may inadvertently expose the horse to the small amounts of cocaine that readily yield detectable BZE levels in the horse's urine.

5. Cocaine: An Environmental Contaminant

Cocaine is, for better or worse, a ubiquitous environmental contaminant in the United States. In 1995, an estimated 3.3 million U.S. citizens were cocaine users, consuming ~330 metric tons of cocaine a year.[6] This substantial quantity of cocaine is handled many times before being consumed, allowing contamination of numerous locations and items by both traffickers and users.

Paper currency, which moves from person to person, is the best studied example of cocaine contamination. In the United States, 79% of paper currency may be contaminated with cocaine. A study by the National Institutes of Health on 136 one-dollar bills collected in 14 American cities showed that 79% of these bills yielded at least 100 ng of cocaine per bill. More than one-half of these bills (54%) yielded 1000 ng/bill, and one bill, from Portsmouth, Ohio, yielded 1.3 mg of cocaine, a very significant amount of cocaine by analytical standards (Fig. 3).[7]

These results are well supported by other data. A related study suggests that 75% of circulating currency in the Los Angeles area is contaminated with residues of cocaine or other controlled substances. Similarly, 6 of 8 bills (75%) taken from civic dignitaries in Orlando, Florida, showed detectable amounts of cocaine. Other studies have shown that Canadian, American, and English paper money carries traces of cocaine, heroin, tetrahydrocannabinol (THC), and amphetamine-related compounds.[6]

Oyler et al.[7] interpreted their results in terms of "cross-contamination" from other currency or contaminated money-counting machines. They concluded that cocaine in amounts of ≤1.3 mg/bill did not signify that the currency was involved in a "drug transaction." These observations also suggest that every individual who handles U.S. paper currency has received, stored, and circulated small quantities of cocaine. These amounts, although generally minuscule, can at times amount to >1 mg/bill, an amount that is much more than sufficient to yield a urinary identification of BZE in a horse or a human.

In terms of cocaine as an environmental contaminant, these data show that exposure of a horse to the amount of cocaine not uncommonly found on a dollar bill in general circulation can trigger a BZE identification. In this regard, Figure 4 shows the positive cocaine identifications from the years 2000–2005 in jurisdictions reporting to the Association of Racing Commissioners International, showing a total of at least 52 reported cocaine/BZE identifications in nine different jurisdictions. Because the amount of cocaine on a single bill is sufficient to

Cocaine concentrations in United States Paper Currency ($1 denominations) from Selected Cities

City	Number positive (>0.1 μg/bill)	Number positive (>1.0 μg/bill)	Mean amount (μg/bill)	Range (μg/bill)
Baltimore, MD	9	9	75.7	0–597.0
Miami, FL	3*	2*	2.5	0–13.1
Chicago, IL	7	4	0.7	0–2.2
Honolulu, HI	10	5	3.0	0.2–9.9
Kansas City, KS	9	8	6.3	0–24.3
Las Vegas, NV	9	5	3.9	0–13.9
Los Angeles, CA	9	6	3.9	0–11.4
Minneapolis, MN	8	6	63.8	0–559.8
Spanish Fort, AL	9	7	9.0	0–70.3
Ft. Wayne, IN	9	6	3.8	0–16.6
Pittsburgh, PA	4	1	0.4	0–2.6
Yellowstone, WY	5	2	1.9	0–14.5
Whitefish, MT	7	4	0.9	0–3.0
Portsmouth, OH	10	9	136.9	0.5–1327.0

* N = 10 for all collection points except Miami, FL, where N = 6

Fig. 3. Amount of cocaine in micrograms extracted from 136 randomly selected one-dollar bills from 14 American cities. 79% of the bills contain traceable amounts of cocaine, and one particular bill from Ohio contained 1.3 mg of cocaine.[7]

yield a post-race urinary concentration of BZE in a horse of 50–100 ng/ml, the question then becomes what, if anything, is the performance and therefore, forensic significance of these trace-level urinary identifications of BZE.

For most of these reported identifications, the material identified was BZE; however, its concentration was not identified. For Indiana, most of a number of identifications in the fall of 2005 involved BZE urinary concentrations of ~30 ng/ml. Even low concentrations are a problem for horsemen, because they may face significant fines and/or suspensions for identifications over which they have little or no control.

Lack of appreciation for the ease with which low urinary concentrations of BZE can be achieved is not uncommon. With reference to the above identifications in Indiana, an equine veterinarian at Purdue University stated that she "doubted that cocaine would show up in a horse's blood or urine had been given the drug" and offered as h that "somebody would have to have th pretty much coated with it for you to see at detectable levels."[4] These commen sharp contrast with those of informe professionals.

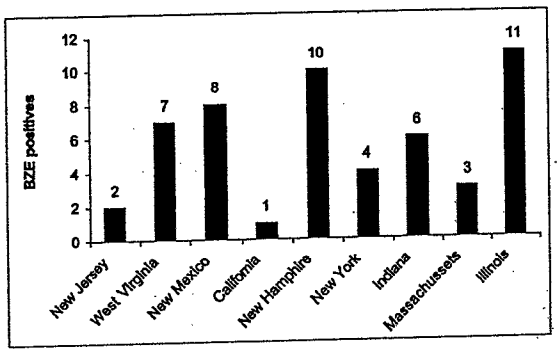


Fig. 4. The vertical bars show the number of cocaine/BZE positives for each of the listed jurisdictions for the years 2000–2005.

6. Cocaine as an Environmental Contaminant: Practical Consequences

The fact that cocaine is an environment nant has a number of practical consequ man forensics. In the first place, the law-enforcement personnel is how m needs to be found on paper money t money to drug trafficking. In this rega courts have ruled that to be admissible the traces of cocaine must be markedly amount (presumably greater) than thos be expected on bank notes in the n graphic area.

A second consequence of the fact that environmental contaminant is the existe erally defined cutoff or limit on the lowe cocaine or metabolite of cocaine that "actionable" in human forensics. This off is 300 ng/ml for screening, and confirmatory tests, which considerabl centrations than the ones that have be of recent positives in equine uri jurisdictions.[8]

Given that cocaine is a ubiquitous en contaminant in North America, the ne address is how much cocaine a horse posed to or administered to yield a

entration of BZE, the major urinary cocaine, and how these concentrations performance effects in horses.

logical and/or Performance Effects

o ways in which cocaine can influence rmance. The first is by means of its central nervous system stimulant ef- second mechanism is through its local operties.

tudied the local anesthetic properties of me detail. Cocaine is the least potent etic that we investigated, requiring a ng per site for a significant local anes- [9] Such a dose of cocaine can give rise concentrations of BZE of ~500 ng/ml, a n far exceeding many of the reported ns of BZE on which regulatory action ken in some jurisdictions.

work, we studied the relationship be- lose of cocaine and central nervous sys- lation.[10] This work used a variable ponding apparatus, which allowed us to measure the central nervous system produced by cocaine. The minimum duce transient central nervous system was 4 mg in one particularly sensitive ve reduce this dose four-fold and assume s the highest no effect dose (HNED) for a mulant effect, we arrive at a very conser- ary limit or cutoff of ~100 ng/ml of BZE. agues at the Ohio State University[11] have e effects of IV cocaine administration in ning on a treadmill, and they have come up conservative estimates of the dose of co- ired to produce a performance effect. In ls, a dose of 50 mg/horse of cocaine was a no-effect dose in terms of possible perfor- hancing effects. A dose of 50 mg/horse, a did not produce an effect, would yield a ncentration of cocaine metabolites in micro- thousands of nanograms (these concentra- r higher than the proposed 150 ng/ml cutoff eviewing these results, Sams[12] has sug- at "cocaine doses >100 mg administered in- ly 5 min before exercise are necessary to n effect on exercise" and he noted that after s "urine concentrations of BZE . . . would be to be several micrograms (several thousands ms) per milliliter."

nt study by Queiroz-Neto et al.[13] suggests HNED for cocaine in a behavior chamber 0.02 mg/kg or ~10 mg/horse and that this ited a peak urinary concentration of BZE of ml at 2 h post-administration. This dose, 10 e, is considerably less than the one reported eever et al.[11] (200 mg/horse to produce an n the horse). This is presumably because z-Neto et al.[13] investigated behavioral changes, whereas McKeever et al.[11] looked at performance effects.

These findings make clear that urine identifications of 100–150 ng/ml or less of BZE are, for forensic purposes, irrelevant trace-level identifications.

8. BZE Alone in Equine Urine

In closing, a finding of BZE alone in a urine sample should be treated with regulatory caution. This is because cocaine added directly to horse urine spontaneously hydrolyzes to yield BZE, but few, if any, of the other cocaine metabolites are found through the horse sample.[1] Our colleagues at Horseracing Forensic Laboratory (HFL)[14] point to the likelihood of some of the original cocaine remaining identifiable in the sample, and they also noted that the pH and storage conditions of the urine sample influence the spontaneous hydrolysis of cocaine into BZE. However, the point remains: a finding of BZE alone, in the absence of other identifiable phase 1 cocaine metabolites, may be caused by post-collection contamination, and a BZE identification by itself cannot rigorously exclude a post-collection source.

9. Currently in Place Limits, Cutoffs, or Thresholds for Cocaine/BZE

A Major North American Jurisdiction

These pharmacologically based cutoffs are in good agreement with regulatory cutoffs currently in place in a number of North American jurisdictions. At one time, a major North American jurisdiction included in their cocaine ELISA screens a 50 ng/ml BZE "calibrator." In this jurisdiction, a sample would need to yield an ELISA reading greater than that produced by 50 ng/ml of BZE to attract further regulatory attention, and this jurisdiction is not represented in the data of Figure 4.

Ohio

In 1999, the Ohio authorities introduced a cutoff for BZE of 150 ng/ml, the same as that in place in human drug testing. Figure 4 shows that no cocaine identifications were reported in Ohio from 2000 to 2005.

Louisiana

The State of Louisiana recognizes BZE as an environmental contaminant, and no disciplinary action is taken if the concentrations found are consistent with environmental contamination and could not have influenced the performance of the horse. In this regard, recent communications show that this threshold is set at 150 ng/ml of BZE, and Figure 4 shows that no cocaine identifications were reported in Louisiana from 2000 to 2005.

Illinois

In early 2005, the State of Illinois introduced a screening cutoff for BZE in post-race urine of 300 ng/ml and a confirmation cutoff of 150 ng/ml. Above

these concentrations, the finding is treated as a full cocaine/BZE identification; below these concentrations, the horsemen is notified, and a considerably less severe action taken. Figure 4 shows that there were 11 BZE positives in Illinois between 2000 and 2005, after which time the State of Illinois introduced its cutoff for BZE.

Florida

Several years ago, the Florida Horsemen's Benevolent and Protective Association and Florida Division of Pari-Mutuel Wagering agreed on an "in-house" unpublished threshold of 100 ng/ml of BZE in urine threshold. Identifications below this threshold result in a fine for the trainer, but no further consequences are incurred; Florida is not represented in the data of Figure 4.

Washington State

Since 2004, the Washington State rules of racing treat cocaine as an environmental contaminant, and ≤50 ng/ml of urinary BZE does not activate regulatory sanctions. Washington State is not represented in the data of Figure 4.

Oklahoma

At the time that this manuscript was submitted for publication, we were informed that Oklahoma was preparing to formally recognize BZE as a "trace common substance," an environmental contaminant at concentrations of ≤150 ng/ml. We also note that Oklahoma is not represented in the data of Figure 4.

10. The National Horsemen's Benevolent and Protective Association Proposed Policy on Drug Testing and Therapeutic Medication

As set forth above, low-concentration urinary identifications of BZE have occurred around the world; a number of jurisdictions now have formal published thresholds, regulatory limits, or in-house regulatory limits for cocaine. The National Horsemen's Benevolent and Protective Association "Proposed Policy for Drug Testing and Therapeutic Medication" was published in the January 2003 issue of the *Journal of Equine Veterinary Science,* and it proposed a cutoff of 150 ng/ml of BZE in urine.

11. Conclusion

A number of horse-racing jurisdictions have adopted urinary cutoffs for BZE of 50–150 ng/ml, broadly similar to those in place for human workplace drug testing. This communication presents the scientific basis for these cutoffs in equine forensic science and lists no less than seven North American jurisdictions with proposed or in place urinary cutoffs for BZE.

We would like to acknowledge *The Journal of Analytical Toxicology* for permission to reproduce Figure 3 (originally published and extracted from Oyler et al.). This study was supported by the following Horsemen's Benevolent and Protective Association Alabama; Arizona; Arkansas; Canada; Char Town, West Virginia; Florida; Kentucky; Iowa; L isiana; Michigan; Minnesota; National; Nebras Ohio; Oklahoma; Ontario, Canada; Oregon; Pe sylvania; Tampa Bay Downs; Texas; Washing and West Virginia. This article was published no. 361 from the Equine Pharmacology, Thera tics, and Toxicology Program at the Maxwell Gluck Equine Research Center and Departme Veterinary Science, University of Kentucky. article was also published as Kentucky Agricul Experiment Station Article no. 06-14-042 wit approval of the Dean and Director, College of culture and the Kentucky Agricultural Experi tal Station.

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West Virginia Thoroughbred Breeders Association, Inc.

Post Office Box 626 • Charles Town, W. Va. 25414
304-728-6868 • Fax 304-724-7870

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June 28, 2010

West Virginia Racing Commission
106 Dee Drive Suite 2
Charleston, WV 25311

Dear Commissioners,

As you know the West Virginia Thoroughbred Breeders Association is made up of 312 members who are involved in the production of West Virginia thoroughbreds. We are writing this letter on behalf of our organization to serve as our public comment on the proposed rules of racing. We appreciate all the time and effort that was put into these rules and recognize that tremendous progress has been made by the commission in this process to create uniform guidelines for the thoroughbred racing industry in West Virginia.

However, we have several specific concerns to multiple portions of this rule change. First and foremost is the need to better define 'Accredited Thoroughbred Horse'. The current definition does not adequately explain all the requirements that need to be met in order to actually be considered an accredited West Virginia bred and or sired. The lack of clarity in this definition is a serious problem and opens the Commission to possible litigation. We understand that the language in the proposed rules reflects the definition that is in the West Virginia Code, but we feel that the definition needs to be changed there as well. We feel the definition should read that an Accredited Thoroughbred Horse means a horse that is foaled in West Virginia or sired by an accredited West Virginia sire and registered with the West Virginia Thoroughbred Breeders Association.

Secondly, under Part 10 178-1-59 Accredited Race Fund 59.1.c of the proposed rules the language is not the same as the West Virginia Code 19-23-13b (h) (3). The WV Code reads "The breeder of the West Virginia bred foal is not a West Virginia resident and does not qualify under subdivision (2) of this subsection, but either the sire of the West Virginia bred-foal is a West Virginia stallion, or the mare is covered only by a West Virginia accredited stallion or stallions before December 31 of the calendar year

following the birth of that West Virginia bred-foal". We would like to have the language in the proposed rules of racing read the same.

Also, in the current rules of racing 178-1-71 State Breeder Awards could not be found anywhere in the new proposed rules. We feel that this section should not be omitted from the proposed rules of racing.

In regards to racing and making entries, it has occurred, in the past, that the racing secretary will close certain races at the time of closing (11:00am) but leave other races open to fill. We feel that this allows for unfair treatment of entries and would ask that the commission add language in the new rules that would require that all races close at the same time i.e. that if any race is left open for entries past the regular time of closing that all races remain open until the time of draw.

Other areas of concern are the increase in Jockey weights, the increase in fines, and the medication rules. Although we are greatly concerned about the health issues of jockeys we don't feel that increasing the weight will solve those issues. It will, however, increase the stress on the racehorses, which will increase the time it takes for a horse to recover from a race, thereby limiting the number of starts and making races harder to fill. We would like to see no change in weights until more information on the effects on the horse becomes available.

The medication rules, although an improvement over the zero tolerance rule, seem to discourage trainers, owners, and veterinarians to provide appropriate health care and treatments to the horse. Again the horses stand to suffer the most. Many racing jurisdictions have approved withdraw times on several therapeutic equine medications. In an article presented to the Kentucky Bar Association at Keeneland, Lexington, Kentucky the authors state "What the horseman needs are clear, transparent "withdrawal time guidelines": i.e., guidelines as to when he should stop administering the medication prior to post so that the blood or urine "reading" comes in below the stipulated threshold, whatever that particular threshold may be." If you were to look at Delaware for instance they provide a list of therapeutic medications, the way they can be administered, and how close to a race they can be used. We have enclosed a copy of Delaware's list as well as the Kentucky Bar Association article for your convenience. Mountaineer HBPA has submitted to the commission for review a list of other jurisdictions acceptable therapeutic medication levels.

The fact that horses under the proposed rules could potentially come up positive for a substance that is ubiquitous in the environment leads us to the penalties for such violations. We definitely support the fact that someone, trainer or owner, who habitually violates medication rules, should be held accountable and punished. However the proposed fines are excessive and will discourage ownership of thoroughbreds here in West Virginia. Many of our owners are the trainer as well and so they would potentially be fined $7,500.00 total for a violation. This would put many out of business. For the owners who do not train, many have no idea what

medications are used, including medications such as Lasix and adjunct. They would be held accountable for a situation that they do not only not understand but have no control over. We feel that the fines should be increased but not to the excessive amount that is currently being proposed.

So much work has been done to improve the West Virginia rules of racing and now you as commissioners have the opportunity to proactively fine tune these rules using the comments you receive from the people who must live by these rules. We are the ones who can help you understand the impact these rules will have on the industry as well as potential problems that could arise or be adverted by what is written. We know you will seriously consider all comments made during this time and look forward to your decisions. Thank you for your time and desire to make West Virginia horse racing the best it can be.

Respectfully,

Doug Allara, DVM
WVTBA President

Chip Daniel, DVM
WVTBA Vice-President

Betty Stehr
Betty Stehr
WVTBA Treasure

Allison Painter, DVM
WVTBA Secretary

July 6, 2010

WV Racing Commission
106 Dee Drive Suite 2
Charleston, WV 25311

WVTBA
P.O. Box 626
Charles Town, WV 25414

RECEIVED
WVRC 07/JUL/'10 AM11:52

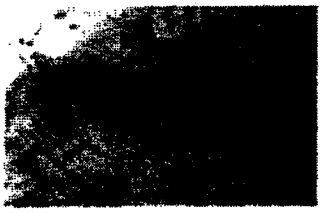
Dear Commissioners,

Please find enclosed the two articles referred to in the West Virginia Thoroughbred Breeders Association's letter of public comment concerning the proposed rules of racing. The articles were inadvertently left out of the original mailing. We are terribly sorry for the inconvenience.

Sincerely,

Alisyn Kate Painter, DVM
WVTBA, Secretary

Equine Drugs, Medications, and Performance Altering Substances: Their Performance Effects, Detection, and Regulation



By Thomas Tobin, Fernanda Camargo, Andreas Lehner*, Wojciech Karpiesiuk, and Charlie Hughes

Equine Pharmacology, Therapeutics and Toxicology Laboratory
The Maxwell H. Gluck Equine Research Center
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Florida Horsemen's Benevolent and Protective Association
P.O Box 1808
Opa Loca, FL 33055-0808

Based on a presentation to the Equine Law section of the Kentucky Bar Association at Keeneland, Lexington, Kentucky, Oct 21, 2005.

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1. Summary

Thoroughbred Racing has been testing for drugs and medications since about 1903. Today, racehorse testing is by far the longest established, broadest in scope and most sensitive drug testing performed on earth. Racehorse testing is also performed within an extremely stringent regulatory context, and my understanding is that many of our constitutional protections as US citizens are inoperative in the racing environment. Racehorse testing is also remarkably "clean," as the incidence of deliberate use of performance affecting substances seems to be very small.

There are good reasons for all of the above. It is empirically clear that medication is highly likely to influence the performance of racing horses, although the scientific evidence for this is less than overwhelming.

In the mid-nineteen eighties, the use of high potency drugs was not particularly well controlled. Following a directive from the Kentucky State Racing Commission, an interdisciplinary team at the University of Kentucky adapted ELISA testing to racing chemistry; this proprietary technology basically solved the problem of the abuse of high potency drugs in racing horses, and these tests are now marketed worldwide.

Advances in testing are research driven. Once a medication is called, its use drops dramatically, to close to zero, but not quite zero; it appears that there are always people ready to try a medication that worked for them, or for a colleague, or for a rival, in the past.

Overall, the rate at which medication violations are reported in racing is extremely small. For example, from 1995–1999 there were about 3 positives for every 100,000 samples for ARCI Class 1 violations after trace identifications of dietary and environmental substances were eliminated. By far, the most common identifications reported are "traces" of therapeutic medications, and dietary and environmental substances.

The ease with which "traces" of therapeutic medications, dietary and environmental substances can be detected using current testing technology is leading scientists and regulators away from the old "zero tolerance" approach, which many authorities now see as outdated, to regulatory limits or thresholds.

ELISA testing allows highly sensitive detection of trace amounts ("tail ends") of therapeutic medications, environmental and dietary substances. In the nineties, following another Kentucky Racing Commission directive, the Gluck program at the University of Kentucky pioneered the basic research that underpins the evolving and increasing use of regulatory "thresholds" in racing regulation.

More recent challenges include developing effective regulatory methods for the newer recombinant hormonal products such as the various human recombinant erythropoietin products and variants and growth hormones. Within the last year a high quality ELISA test has been made available for human recombinant erythropoietin and racing scored a major scientific breakthrough by developing the first Mass Spectral Confirmation method to

detect use of recombinant erythropoietin (rhEPO) in horses or any species.

2. Background and Definitions

There are at least 10 million known chemical substances and 4,000 or more prescription medications. Regulators in the United States, therefore, divide drugs and medications into two major groups:

The largest group comprises "Performance-enhancing substances", whose identification in a horse is viewed with great regulatory concern. Testing for these substances usually proceeds at the highest level of sensitivity possible; so-called "zero-tolerance" testing. About 850 or so substances are classified by the Association of Racing Commissioners International (ARCI) Uniform Classification System for Foreign Substances as potentially performance enhancing in a five class system, the most complete listing of such substances available (http://www.arci.com/druglisting.pdf).

The second smaller group comprises the "therapeutic medications". There are approximately 50 plus of these used therapeutically in horses in training (Table 1). Since about 2000, it has come to be much more generally accepted that we must set "limitations" on testing for therapeutic medications. These limitations are variously called thresholds or reporting levels, or decision levels (California) depending on the semantic preference of individual jurisdictions.

Table 1. Therapeutic Medications Routinely Used and Identified as Necessary by the Veterinary Advisory Committee: (Racing Medication and Testing Consortium {RMTC} draft list of therapeutic medications, 2005)

1. Acepromazine
2. Albuterol
3. Aminocaproic Acid
4. Atropine
5. Beclomethasone
6. Betamethasone
7. Boldenone
8. Butorphanol
9. Cimetidine
10. Clenbuterol
11. Cromolyn
12. Dantrolene
13. Detomidine
14. Dexamethasone
15. Diazepam
16. DMSO
17. Dipyrone
18. Flunixin
19. Fluprednisolone
20. Fluphenazine
21. Furosemide
22. Glycopyrrolate
23. Guaifenesin
24. Hydroxyzine
25. Isoflupredone
26. Isoxsuprine
27. Ketoprofen
28. Lidocaine
29. Mepivacaine
30. Methocarbamol
31. Methylprednisolone
32. Nandrolone
33. Omeprazole
34. Pentoxifylline
35. Phenylbutazone
36. Phenytoin
37. Prednisolone
38. Predmisone
39. Procaine Penicillin
40. Pyrilamine
41. Ranitidine
42. Reserpine
43. Stanozolol
44. Testosterone
45. Triamcinolone
46. Trichlomethiazide

3. History

Up to 100 years ago there was little concern about the use of medication in racing horses, particularly in North America. The 1800s had seen the purification of cocaine and morphine and availability of these substances made the acute stimulant medication of racing horses a reality. Around the turn-of-the-century (1890-1910), a number of American trainers went to Europe, taking with them the new American medications. As a group, they were so successful that they became known in European racing venues as the "Yankee Alchemists".

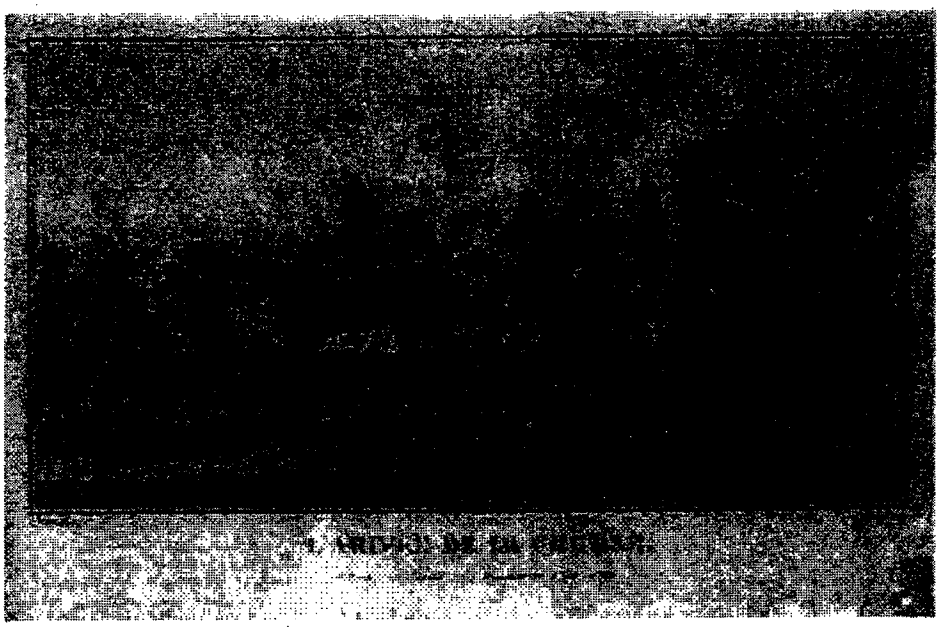
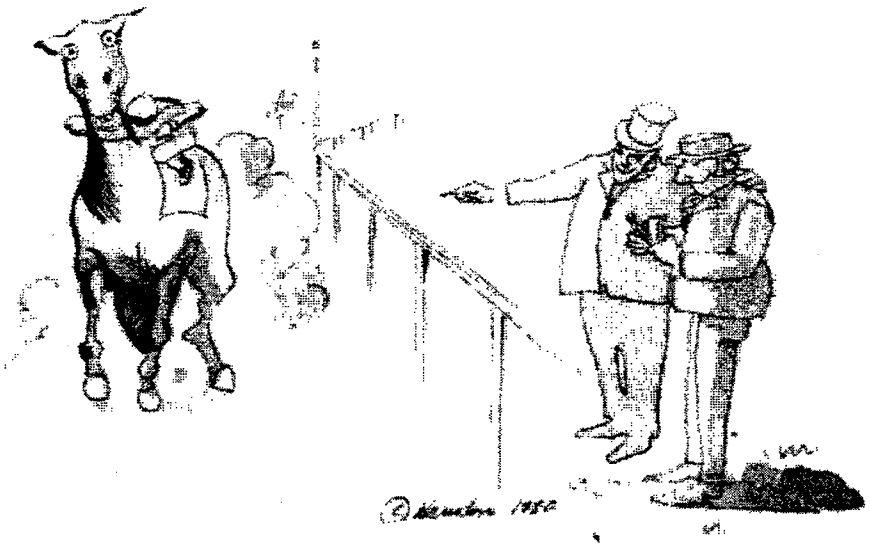


Figure 1. Carl Vernet depicts pre-race dosing. ca. 1810

In the early 1900s the Honorable Mr. George Lambton, the leading English trainer of his time, grew tired of losing to the "Yankee Alchemists", as he also soon grew tired of politely requesting the English Jockey Club to do "something" about the problem. He therefore purchased some American "medications", and publicly announced that certain horses in certain races were going to be, well, shall we say, "medicated". These activities soon gained the Jockey Club's attention, and in 1903 the medication of a racing horse was made an offense against the rules of racing in England. The record is silent as to how these rules were to be enforced, but the prescribed punishment was to be "ruled off the turf", a punishment still in place in parts of the English speaking world.



A trainer called Windsurf, financed by "Betcha A Million" Gates, reportedly brought stimulant medication to England.

Figure 2.

Somewhat farther from home, a trainer by the name of James Keene was also having a very good run in Russia. This came to an abrupt halt one day, when Mr. Keene was met in the paddock by a Russian racing official, followed by Russian chemist, complete with a basket of frogs. Some saliva was taken from Mr. Keene's horse, and presumably force-fed to the frog, which then reportedly behaved in a most un-frog-like way. Mr. Keene's horse was duly declared "positive"; shortly thereafter, Mr. Keene left Russia and returned to Kentucky, where he founded a farm called Keeneland.

Classic analytical race testing as we know it started in France in the early 1900s; in 1935, Mr. William Woodward sent Dr. Catlett, a veterinarian, and Dr. Morgan, a chemist, from Florida to France to learn the French drug testing techniques. They returned to Florida and set up the first US drug testing lab; later the New York Racing Commission opened a racing chemistry laboratory on the10th floor of a building on Chambers Street in Manhattan. In 1947 the Association of Official Racing Chemists was formed.

The late Mr. Robert Vessiny, Truesdail Labs, Tustin, CA, circa 2000. His working career, beginning in 1941 at the NY Commission Laboratory on Chamber Street in Manhattan and continuing until 2005, covered virtually the entire history of US racehorse testing, which started about 1935 in Florida and New York under Dr. Charles

Morgan.

Figure 3. Robert Vessiny

4. Can Drugs or Medications Influence the Outcome of a Race?

Drugs and medications can be used to influence the outcome of races in a number of ways. Acute stimulant medication is the administration of a stimulant substance to a horse shortly before post. Among the especially useful agents in this area are the opiates, which have long been used in racing horses, and also the amphetamine like stimulants, especially methylphenidate (Ritalin). All of these have been widely used, the opiates likely for hundreds of years, and presumably particularly so when testing for these agents was not available.

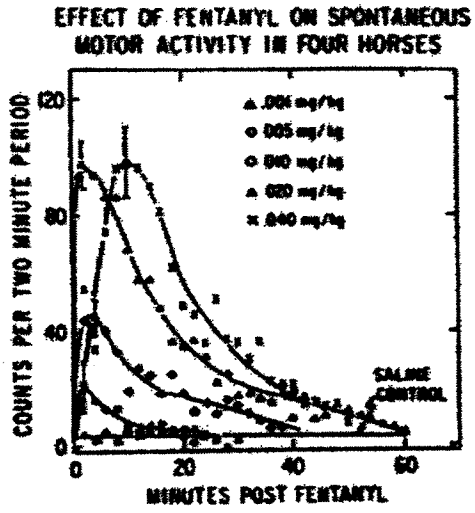


Figure 4.

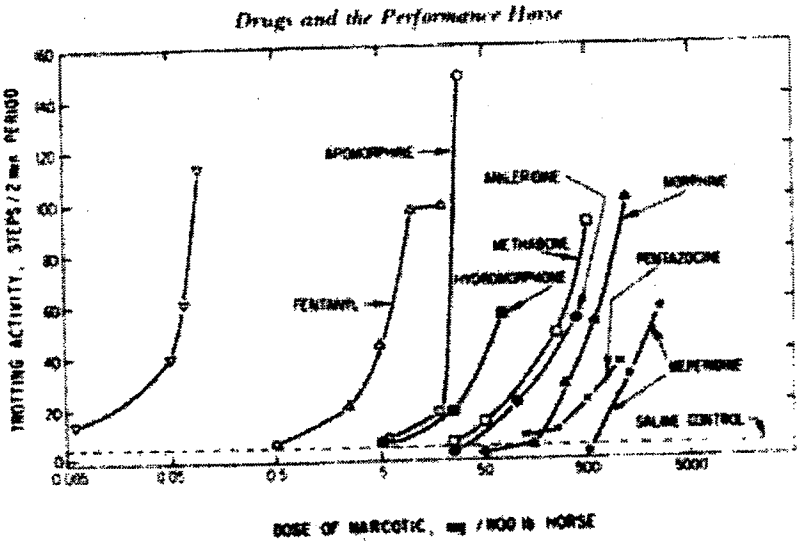


Figure 12.7 Trotting responses in horses after different narcotic drugs. Horses were injected IV with the indicated number of milligrams of each drug and the trotting response counted. The peak trotting response to each drug was then plotted against dose. An unnamed experimental drug was the most potent drug tested, being about 100 times more potent than fentanyl. Fentanyl was the next most potent drug, as 8 mg was enough to produce a peak response. After fentanyl, the next most potent drug was apomorphine, followed by hydromorphone, methadone, anileridine, morphine, pentazocine, and meperidine. This is the same order as their potency as narcotic analgesics in man. Note in particular the poor response to pentazocine (Talwin®) in this test.

Figure 5.

As testing improved those individuals seeking an "opiate edge" began to use the more potent and thus more difficult to detect opiates. The unnamed but highly potent opiate at the far left of the above family of dose response curves is etorphine, or "elephant juice". Etorphine is one of the most potent opiates known and at the time that this figure was published in "Drugs and the Performance Horse" in 1981, there was no test available that could detect it. This figure also shows, for one family of substances, the 10,000 fold range in dose/potency from the least potent opiate tested on the right, meperidine, at about a one gram/horse doses, to the highly potent etorphine on the far left, with 50 micrograms (50 millionths of a gram) producing an equivalent pharmacological effect to a gram or more of meperidine. And, of course, etorphine was, in round figures, about 10,000 time more difficult to detect than the old standbys of morphine and heroin, one of whose street names was "horse". This great increase in the potency of medications being used in horses set the stage for the development of ELISA Testing, as we will discuss.

Horses can also be medicated to win by relaxing them, and allowing the horse to run its best possible race. The widely used tranquilizer acepromazine, and any number of related or equivalent agents, have been used in this way.

Improving a horses "wind" by opening its airways through the use of bronchodilators may

also improve the performance of horse, and especially one that is sub-clinically broncho-constricted. In this regard, at one time the best selling ELISA test was a particularly good bronchodilator test.

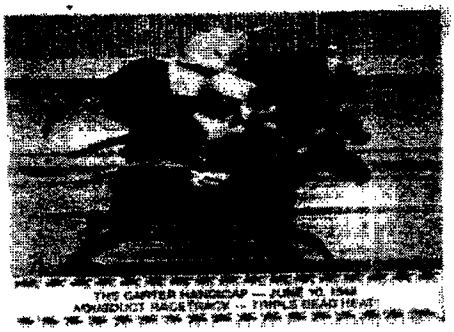


Figure 6. Only triple dead heat on record

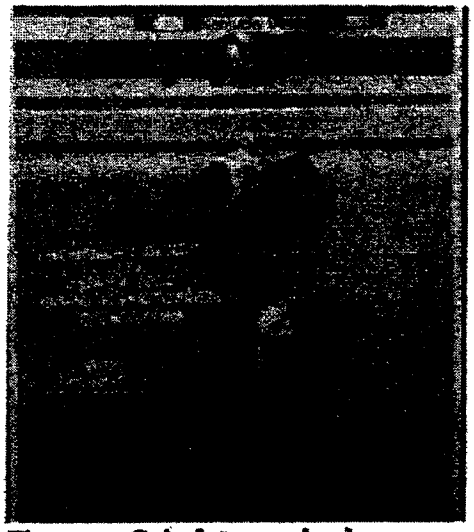


Figure 7. Grindstone wins by a nose

The difficulty with trying to scientifically demonstrate performance effects of drugs in small numbers of horses is that the drug needs to produce a positive performance effect of about the same magnitude as Secretariat's win at Belmont (Fig. 8) to meet the lowest level of statistical significance acceptable in science. This is a considerable experimental challenge; another way of looking at this is that successful horse trainers make far more subtle and discriminating judgments than most scientists, of which I think there is no doubt whatsoever.

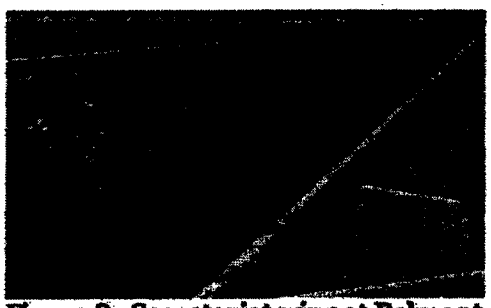


Figure 8. Secretariat wins at Belmont

Veterinarians certify horses as being sound in "wind and limb." Obviously, medications that can affect these parameters and also the "attitude" or "behavior" of a horse have the potential to affect the both the presentation of a horse and also, presumably, the results of the ultimate performance analysis, the outcome of a race. By the mid-nineteen eighties the use of highly potent drugs and medications such as fentanyl (sublimase) and etorphine had created a considerable problem for race testing.

5. The Introduction of ELISA Testing, 1988

In the mid-1980s, race testing was for all practical purposes dependent on a primary screening technique called Thin Layer Chromatographic (TLC) screening. This technology was not particularly sensitive, and in the mid-1980s some horsemen were reportedly using high potency narcotics, stimulants, bronchodilators and tranquilizers with impunity. In 1985 we were requested (directed?) by the then Kentucky State Racing Commission to "fix this problem". The solution that we came up with, ELISA testing for high potency drugs and medications, is in place around the world today, and is evidenced here in Lexington by a thriving concern, Neogen Corp, on Nandino Boulevard, employing 100 people bringing in about US $30 million a year into Lexington (not all through ELISA tests – www.neogen.com/forensickits.htm)

The term ELISA is an acronym that stands for Enyme Linked ImmunoSorbent Assay. Simply put, an ELISA test is a variant on the home pregnancy test technology. It requires a drop of urine; it can be performed relatively rapidly, it is/can be highly sensitive and can be read by eye. When ELISA testing was first introduced, the problem was to keep the technology from "putting down" too many trainers, especially in those jurisdictions that had frozen "back samples". Let me simply say that this was a turbulent time for me professionally, but matters eventually settled down and, as I indicated, ELISA testing is the backbone of drug screening worldwide today.

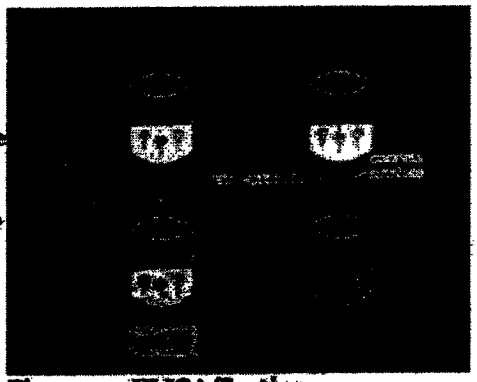


Figure 9. ELISA Testing

This is a 96 well ELISA plate in which the full blue color has been developed in most wells. The clear wells on the left hand side are the "positive controls" containing calibration standards. All of the other wells represent ELISA "negative" urine samples. A "track" ELISA positive would show up as a clear well in the middle of the blue samples, a so called "whiteout", or an ELISA "positive".

Figure 10. ELISA Test Results

An ELISA test will usually detect about 5ng/ml (or 5 parts per billion) of drug or drug metabolite in the sample. Some tests are 10 fold more sensitive, detecting down to the high parts per trillion. To put these figures in perspective, one part per billion is one second in your life if you are 32 years old.

To put the matter of testing sensitivity in regulatory perspective, a sure prescription for regulatory friction/problems is a therapeutic medication (or a dietary or environmental substance) given at higher (gram) doses to horses, excreted efficiently in urine, and being tested for by an analyst with a highly sensitive ELISA test with no thresholds/decision levels in place. In the absence of "thresholds" or detection limits in place, a sensitive ELISA test can become basically a hunting tool/license for forensic chemists, with isoxsuprine, an ARCI class 4 medication, being a classic example.

Finally, we must always remember that an ELISA test simply binds to and "sees" one side/surface of the medication molecule. Therefore, while an ELISA "negative" is almost certainly a true negative, an ELISA test will, by definition, interact with many substances other than the drug in question; as such, the rule with an ELISA "positive" is that it can always be, by definition, a "false positive". Which is, of course why, chemists follow screening tests such as ELISA tests with Mass Spectral confirmations.

6. Mass Spectral Confirmation

While ELISA screening/testing is fast and highly sensitive, it is, as set forth above, far from specific. The second and absolutely critical and essential step in the testing process is confirmatory testing, usually Mass Spectral confirmation. In this step, the molecule is isolated and its precise mass measured, and the molecule is also broken into a series of fragments. Both the mass and relative proportions of these fragments (the fragmentation pattern) are specific for the given drug, and are then matched with known controls/standards run through the system at the same time. A full scan mass spectrum, with appropriate matching controls, is the "gold standard" in drug testing, and is considered definitive evidence for the presence of the substance in the sample in question. Independent replication of the primary findings in the "split" or "referee" analysis usually neutralizes any challenges in the area of analytical chemistry.

Figure 11. Dr. Lehner and the LC/MS/MS

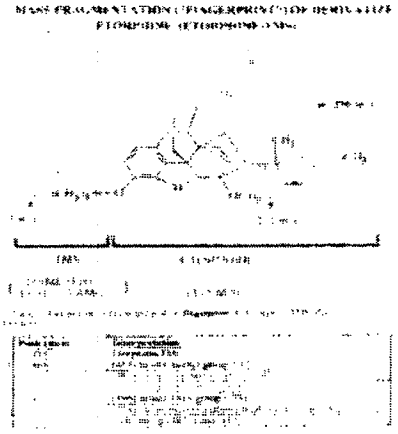


Figure 12.

MASS SPECTRAL CONFIRMATION OF ETORPHINE "ELEPHANT JUICE" IN A RACETRACK SAMPLE

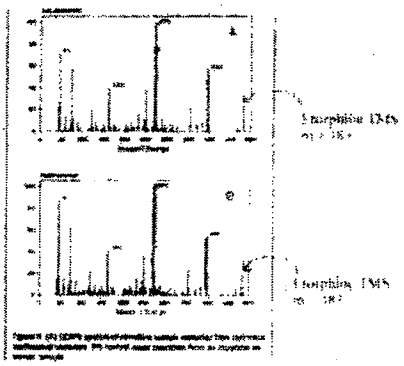


Figure 13.

Comparison of Mass Spectra of a post-race etorphine and an authentic standard. The lower figure shows the mass spectrum of an authentic etorphine laboratory standard. Note the molecular ion at mass 483, the base peak at mass 272 and the various other ions of the standard or control spectrum. Note the very close correspondence of the standard or control mass spectrum with the mass spectrum of the derivatized material recovered from the post-race sample, indicating that the material recovered is indistinguishable from authentic derivatized etorphine.

7. Zero Tolerance Testing

"Zero Tolerance" testing is not testing down to "Zero" molecules, which no chemist can accomplish, but rather testing to the Limit of Detection (LOD) of the best available technology. While this may be an entirely appropriate approach for performance altering substances which have no place in racing, it is absolutely not considered appropriate for therapeutic medications. Therapeutic medications are substances used to maintain the health and welfare of horses, and to arbitrarily change the sensitivity of testing for these agents depending on either the whim of the chemist or the just now, today, availability of an improved technology is entirely inappropriate, as we will see from review of the basic mathematics of medication dosing and elimination.

8. Medication Dosing and Elimination:

When you administer a dose of phenylbutazone to a horse, you administer more phenylbutazone molecules than there are stars in the known universe, that is about 6 followed by 21 zeros molecules. This is a very large number of molecules indeed.

The horse will eliminate the bulk of

this dose of phenylbutazone quite rapidly. If phenylbutazone in the horse has a 7.22 hour half-life, 50% of the drug will be eliminated by 7.22 hours post dosing, 75% by 14.5 hours post dosing, 87.5 by about 22 hours post dosing, and exactly 90% by 24 hours post- dosing. At the end of day 1, when 90% of the drug is eliminated, the pharmacology of the drug is gone, but you still have 6 followed by 20 zeros worth of phenylbutazone molecules in the body. Every day another 90% of the drug in the body will be eliminated, and other zero drops off, but if the chemist really wants to look, he or she can well find traces of the medication or its metabolites for 14 days post administration, a time post-administration that even the most conservative chemists and regulators generally do not wish to pursue an identification. However, the question now arises of when, precisely, should the chemist stop pursuing these traces?

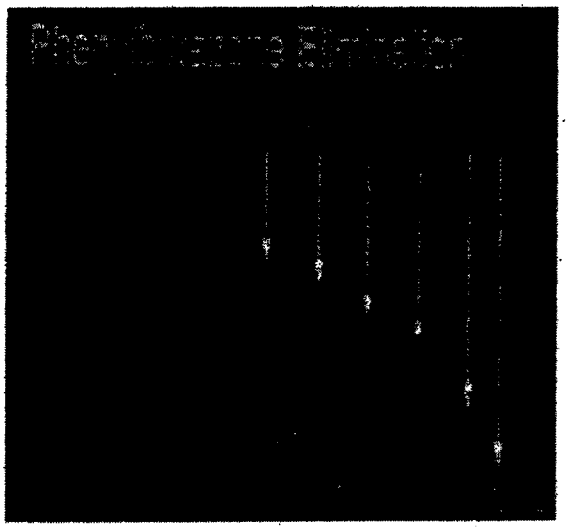
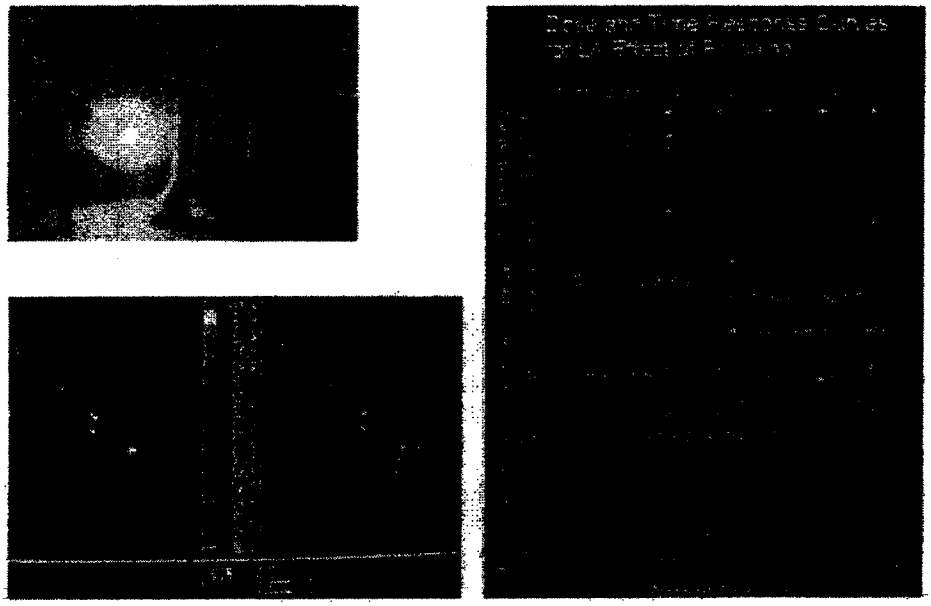


Figure 14.

9. Thresholds, Including "No Effect Thresholds" (NETs)

The answer to this question is simple; the chemist should stop pursuing these traces precisely when he/she is instructed to stop. It is, however, slightly more complicated to determine the exact point at which the chemist should be instructed to cease and desist.

We approached this question experimentally in the Gluck Equine Research Center during the second half of the nineties. Simply put, we administered decreasing doses of local anesthetics to horses until we saw no local anesthetic effect, which gave us the No Effect Dose. Then we measured the concentrations of the drug, actually its metabolites, in the urine, and the concentrations we came up with are obviously not associated with any pharmacological effect. These concentrations then become "No Effect Thresholds" in urine for the specific therapeutic medication, and the chemist is advised not to test below these concentrations, plus an added safety factor.



Figures 15 - 17 Equine response to heat lamp stimuli

We presented this scenario hypothetically in 1994-95, and then started the actual research. We were immediately vigorously attacked from conservative quarters, anonymously and libelously. In 1996 one of these libelous letters surfaced signed by Mrs. Donna Ewing of the Illinois Hooved Animal Humane Society. The University of Kentucky "encouraged me," shall we say, to sue, which I did. Mr. Henry E. Davis was my attorney. While the suit was eventually dropped, it had the desired effect of silencing the complaining parties, who have not been heard from since in racing. More to the point, we completed the research and published it in the refereed scientific literature. By the year 2000, the intellectual concept and more importantly, the actual word "thresholds" became more or less "safe" for a courageous racing administrator to allow past his (or her) lips. Indeed now, in January 2007, the concept of "thresholds" is well established, at least in North America.

In this regard, the concept approach of "zero tolerance" was to some extent officially voted out of favor and "off the regulatory island" in the opening paper of the International Conference of Racing Analysts and Veterinarians (ICRAV) 2000 at Cambridge, England. In this paper Professor Robert L. Smith addressed the concept of zero tolerance, which he considered a "fading illusion," and reviewed the events "which are increasingly undermining the suitability of this approach." In his words, "The zero tolerance approach . . . is in essence an illusion in which the magician is the racing chemist." He continued, "The zero tolerance approach is both philosophically and pragmatically unsound. . . . The goal for the future integrity of racing is to develop "reporting values" for therapeutic substances based upon rigorous analysis of their pharmacological and pharmacokinetic properties and using an appropriate model."

10. Withdrawal Time Guidelines

Let us now move from the theoretical and illusionary concept of "zero tolerance" to practical horsemen's concerns. A "threshold" or a "reporting level" is a concentration value (say, for example 10 parts per billion in urine) that has, in the larger scheme of things, little actual reality for horsemen, since a horseman, or a chemist locked out of his laboratory, cannot "see" 10 parts per billion of anything in horse urine. What the horseman needs are clear, transparent "withdrawal time guidelines": i.e., guidelines as to when he should stop administering the medication prior to post so that the blood or urine "reading" comes in below the stipulated threshold, whatever that particular threshold may be.

This question may actually be considerably more difficult to answer than the threshold determination. The only way to answer this question is, again, by actual experimental determination, followed by field application. The specific medication product in question must be defined, the formulation, dose, route, and duration of administration specified. The medication must be administered to a significant number, hopefully at least 20-50, of Thoroughbred horses in training, and the blood or urinary concentrations of the parent medication or its principal urinary metabolite followed over time. The laboratory performing analyses should be appropriately (American Association of Laboratory Accreditation, A2LA) accredited, and have in place a validated quantitative method for the threshold substance at concentrations down to the lowest concentration present in the experimental horses (http://hbpa.org/resources/MedicationPolicy.pdf).

The data obtained must then be analyzed statistically, and fitted to an established mathematical distribution. One can then use this mathematical distribution to tell horsemen that if they administer the drug following X stipulation doses/days, and stop administration at Y hours prior to post, there will be a Z probability of exceeding the regulatory threshold. One of the things that everybody must understand is that if you administer a medication at any time close to post, there is always a finite mathematical probability of exceeding the threshold; all anybody can do is estimate as accurately as possible the probability of an overage, and make sure that the risk is a risk that the horseman can live with.

This finite probability of a therapeutic medication overage is most likely the reason that regulatory authorities are almost invariably reluctant to be associated with "withdrawal time" guidelines. While a 1/1000 risk of a "positive" may be an entirely acceptable risk for an individual horseman in a small number of horses, if the authority approves a given "withdrawal time" it assumes responsibility for all 10-20,000 or more samples tested in the jurisdiction, which increases the probability of problems 10-20,000 fold, or more if the authority tests more than 20,000 samples.

At the personal level, in the current state of play it is extremely difficult to give useful "withdrawal time information" advice. The number of factors which affect the withdrawal time is very large indeed, and in the absence of a defined threshold ("Zero Tolerance" testing) it can be little more that a guessing game. Whenever I get a "withdrawal time" estimate request, I try to make the uncertainties clear, and I always qualify my opinion with the statement that "there are no guarantees in life, and that most certainly includes "withdrawal time" estimates".

The various factors that can affect "withdrawal times" are set forth in some detail in the National Horsemen's Benevolent and Protective Association's "Proposed National Policy on Drug Testing and Therapeutic Medication." J Eq Vet Sci 23(1): 4-5, 18-40, 2003. http://hbpa.org/resources/MedicationPolicy.pdf

11. The Kentucky Medication Rule

Thirty plus years ago, when the long-standing Kentucky medication rule was formulated, (even before I came to town), there were no thresholds or regulatory limits anywhere; indeed there were very few, if any, quantitative methods. Under these circumstances the Kentucky rule was clear, simple, effective and highly practical. You could not run on stimulants, depressants, local anesthetics, tranquilizers or narcotic analgesics, the classic performance altering substances. However, the use of substances that were perceived as therapeutic was permitted, with the goal of protecting the health and welfare of the horse. This Kentucky rule well fitted the regulatory technology then available, and indeed is, I understand, very close to the rule currently obtaining in human athletics. The fundamental rule has been in place for at least 30 years in Kentucky and, to the best of my knowledge, served the horses and horsemen of Kentucky well.

12. The Proposed Racing Medication Testing Consortium (RMTC) Rule

More recently the proposed National RMTC rule has chosen to approach various jurisdictions relatively liberal use of Non-Steroidal Anti-Inflammatories, (NSAIs), phenylbutazone and flunixin, on race day rules. In the first place, we should all understand that phenylbutazone and flunixin are basically nothing, more or less, than horse aspirin. Aspirin is very rapidly eliminated by the horse, and is therefore not a particularly useful medication in horses. Phenylbutazone and flunixin are full brothers to aspirin, and produce more or less the same effect. In particular, in our hands phenylbutazone did not affect a horse's pain threshold, entirely consistent with our understanding of this medication and our every day experience with aspirin.

The proposed RMTC rule adopts the mid-eighties phenylbutazone threshold of 5ug/ml in blood and adds two extra thresholds, one for flunixin of 20ng/ml and one for ketoprofen of 10ng/ml in blood. As of this writing, California has completed some significant experimental work on flunixin and is apparently in the process of experimentally evaluating the proposed RMTC 20 ng/ml flunixin threshold.

Such a re-evaluation would not be particularly surprising, because, to my knowledge, there is no definitive published scientific study that approaches addressing the question of a 24-hour threshold of flunixin in the blood of a racing Thoroughbred at the appropriate level of rigor required prior to its introduction as a national rule.

Finally, as of this writing, the RMTC appears committed to developing regulatory thresholds in plasma for all of the therapeutic medications listed in Table 1., a significant

regulatory advance based on recent technological and regulatory developments.

13. Further Reading

1/ www.thomastobin.com

2/ Thomas Tobin, *Drugs and the Performance Horse* by Thomas Tobin, 463 pages, Charles C. Thomas, Springfield, Illinois, 1981.

3/ Tobin T, Mundy GD, Stanley SD, Sams RA, Crone D (eds): Testing for Therapeutic Medications, Environmental and Dietary Substances in Racing Horses, Proceedings of Workshop, Lexington, KY, 220 pages, 1995. [KY Ag Exp Sta #95-14-058]

4/ The Association of Racing Commissioners International (ARCI) Uniform Classification System for Foreign Substances: http://www.arci.com/druglisting.pdf

5/ Tobin T, Harkins JD, Sams RA: Testing for therapeutic medications: Analytical/ pharmacological relationships and the need for "limitations" on the sensitivity of testing for certain agents. J Vet Pharm Therap, 22:220-233. 1999. [KY Ag Exp Sta #98-14-134].

6/ Smith R.L "The zero tolerance approach to doping control in horse racing: a fading illusion." Proceedings of the 13th International Conference of Racing Analysts and Veterinarians (ICRAV) Cambridge, United Kingdom, p 9-14, 2000.

7/ Stirling K, Bellocq R, and Tobin T: National Horsemen's Benevolent and Protective Association, Inc. Proposed National Policy on Drug Testing and Therapeutic Medication. J Eq Vet Sci 23(1): 4-5, 18-40, 2003. http://hbpa.org/resources/MedicationPolicy.pdf

8/ Neogen ELISA tests: www.neogen.com/forensickits.htm

9/ Tobin T, Harkins JD, VanMeter PW, Fuller TA: The Mare Reproductive Loss Syndrome II: A Toxicokinetic/Clinical Analysis and a Proposed Pathogenesis; Septic Penetrating Setae. Intern. J. Appl. Res. Vet. Med., Vol 2 No 2 P 142 - 158, 2004.www.ijarvm.com/articles/Vol2Iss2/TOBINJARVMVol2No2.pdf

Appendix #1

Association of Racing Commissioners International "Drug Positives"

8/16/2004 Thru 8/16/2005

RCI Drug Postive Rulings From 8/1/2004 Thru 8/1/2005

4 ACEPROMAZINE

1 ACETYLSALICYLIC ACID (ASPIRIN)
10 ALBUTEROL
4 AMINOREX
4 AMPHETAMINE
1 BENZOCAINE
9 BENZOYLECGONINE
1 BETAMETHASONE
1 BOLDENONE
1 BUMETANIDE
1 BUSPIRONE
1 BUTORPHANOL
16 CAFFEINE
3 CAFFEINE; THEOPHYLLINE
1 CAFTHEOBTHEOP
1 CARPROFEN
1 CELECOXIB
3 CIMETIDINE
26 CLENBUTEROL
6 CROMOLYN
1 DANTROLENE
1 DESMETHYLPYRILAMINE
1 DESMETHYLPYRLAMINE
1 DETOMIDINE
45 DEXAMETHASONE
1 DEXTRORPHAN
14 DICLOFENAC
20 DIMETHYLSULFOXIDE
1 DIPHENHYDRAMINE
1 DIPRENOPHINE
3 DORMOSEDAN
2 EPHEDRINE
1 ERGONOVINE
3 EXCESS TCO2
1 FEXOFENADINE
1 FLUMETHASONE
85 FLUNIXIN
4 FLUNIXIN/PHENYLBUTAZONE
1 FLUPHENAZINE
25 FUROSEMIDE
3 GUAIFENESIN
6 GUANABENZ
1 HALOPERIDOL
2 HYDROCORTISONE AND MEVIPICAINE
1 HYDROMORPHONE
1 HYDROXYDANTROLENE

CountOfDRUGNAME

DRUGNAME

2 HYDROXYDETOMIDINE
2 HYDROXYETHYL PROMAZINE SULFOXIDE
1 HYDROXYLIDOCAINE
1 HYDROXYMEPIVACAINE
1 IPRATROPIUM
4 IPRATROPIUM BROMIDE
1 ISOFLUPREDONE
2 ISOXSUPRINE
6 KETOPROFEN
18 KETOROLAC
10 LASIX
2 LIDOCAINE
3 MEPIVACAINE
7 METHAMPHETAMINE
24 METHOCARBAMOL
16 METHYLPREDNISOLONE
2 MORPHINE
9 NAPROXEN
1 NAPROXEN POSITIVE
2 NAPROXENTHE
1 NAQUASONE
1 NORPSEUDOEPHEDRINE DESMETHYLPYRILAMINE
1 O-DESMETHYLPYRILAMINE AND NORPSEUDOEPHEDRINE
2 PENTAZOCINE
2 PENTOXYFYLLINE
1 PERINDOPRIL
1 PHENYLBUTAZONE
4 PHENYOXYPHEN
1 PIRBUTEROL
3 POLYETHYLENEGLYCOL
15 PROCAINE
2 PROPANTHELINE
1 PROPRANOLOL
1 PSEUDOEPHEDRINE
1 PSEUDOEPHEDRINE And NORPSEUDOEPHEDRINE
1 PSEUDOEPHEDRINE AND NORPSEUDOEPHEDRINE AND DESMETHYLPYRILAMI
2 PYRILAMINE
8 RANITIDINE
1 SALICYLIC ACID
4 SALIX
1 TERBUTALINE POSTV
5 THEOPHYLLINE
47 TOTAL CARBON DIOXIDE
3 TRIAMCINOLONE
4 TRICHLORMETHIAZIDE
4 TRIMETHOPRIM
4 TRIPELENNAMINE
23 UNKNOWN
1 VENTIPULMIN SYRUP

Appendix #2

DETAILS OF THE FIELD AND MEDICATION REGULATION

National Horsemen's Benevolent and Protective Association, Inc. Proposed National Policy on Drug Testing and Therapeutic Medication. J Eq Vet Sci 23(1): 4-5, 18-40, 2003. http://hbpa.org/resources/MedicationPolicy.pdf

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STATE OF NEW JERSEY

DEPARTMENT OF LAW AND PUBLIC SAFETY

DIVISION OF THE NEW JERSEY RACING COMMISSION

QUICK REFERENCE:

MEDICATION GUIDELINES FOR RACE HORSES 2008

This guide is not considered a substitute for the complete administrative rules of the New Jersey Racing Commission published under New Jersey Administrative Code 13:70 and 13:71.

The intent of the New Jersey Racing Commission's medication rules is to protect the integrity of horse racing, to guard the health of the horse, and to safeguard the interests of the public and racing participants through the prohibition and /or control of all drugs and or/foreign substances foreign to the natural horse. This Quick Reference Guide presents suggested withdrawal times in which therapeutic medications must be withdrawn before the start of a racing program or specific race in which the horse is entered.

This booklet provides medication guidelines to assist horsemen in complying with the New Jersey Racing Commission's medication rules. Drug testing services are provided by the NJ State Police –Office of Forensic Sciences-Equine Testing Laboratory. **This booklet is for reference purposes only, and is not a warranty, guarantee or assurance about any generic substance described herein. The information does not relieve or lessen a trainer's responsibilities outlined in the medication rules and should not be considered a substitute for the complete Medication and Testing Regulations of the Commission contained in N.J.A.C. 13:70-14A and 13:71-23.**

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Substances that may be administered **any time** up to race time:

Topical application only:

Antiseptics, ointments, salves, DMSO, leg rubs, leg paints and liniments.
These applications cannot contain benzocaine, steroids, or other drugs (Read labels).

Up to 4 hours pre race:

FUROSEMIDE (Lasix or Salix)

The administration of Furosemide (Lasix or Salix) and Aminocaproic acid is permissible under the procedures outlined under the Lasix rule in racing, 13:71-23A OR 13:70-14A.9. :

Furosemide (Lasix or Salix)
150 – 500 mg
I.V. only
Up to 4 hours pre race
Licensed practicing veterinarian

ADJUNCT BLEEDER MEDICATIONS:

Aminocaproic acid (Amicar)
10 ml (2.5 gram) I.V. co-administered with furosemide only

Amicar Note:

Please check with NJRC Officials (State Veterinarian, Stewards, Judges, etc.) before administering Amicar to determine if its use is permissible

Substances that may be administered by injection up to **24 hours before the start of the racing program:**

Antibiotics, sulfa-expectorants, tetanus antitoxin, vitamins, and other food supplements and body nutrients not containing alkalizing agents, procaine or other drugs.

Anti-ulcer medications (Orally): Omeprazole, Cimetidine, Ranitadine, and Sucralfate.

Either one (but only one) of the following anti-inflammatory drugs may be administered **until 24 hours before the scheduled post time of the race in which the horse is entered:**

The following substances must be withdrawn twenty four hours (24 hours) before the start of the race in which the horse is entered to start. These anti-inflammatory drugs must be administered intravenously only by a licensed practicing veterinarian:

Phenylbutazone
up to 2 grams
I.V. only

Flunixin
0.5 mg/ 100 lbs. = (1 cc per 100 lbs.)
Up to maximum of 500 mg (10cc)
I.V. only

Substances that may be administered by any means until **48 hours before the start of the racing program:**

- Aminophylline or theophylline
- Arsenic solutions (i.e. Fowlers solution)
- Aspirin of sodium thiosalicylate
- Chromotrypsin
- Other diuretics (e.g. thiazides)
- Selenium/vitamin E (i.e. E-Se)
- Griseofulvin (i.e. Fulvicin)
- Glycosaminoglycans (GAGS) (i.e. Hyaluronic acid)
- Glucocorticol steroids only, except in conjunction with joint aspiration (see pp. 7)
- Iodine injection (i.e. Hypodermin, Harvey's Injectable Blister)
- Methenamine (Urotropin)
- NSAIDS:
  - Flunixin (e.g. Banamine)
  - Phenylbutazone (e.g. Butazolidin)
  - Naproxen (e.g.Naprosyn, Equiproxen)
  - Ketoprofen (e.g. Orudis)
  - Meclofenamic acid (e.g. Arquel)
- Orgotein (e.g. Palosein)
- Hydroxychloroquine sulfate (e.g. Rheaform)
- Sarapin
- Sulfonamide drugs (Sulfadrugs)
- Biologics (e.g. bacterins, antitoxins except tetanus antitoxin)

Substances that may be administered by any means up to 72 hours before the start of the scheduled post time of the race in which the horse is to compete:

- **Antihistamines**
- **Dantrolene**
- **Ketamine hydrochloride**
- **Methocarbamol (e.g. Robaxin)**
- **Pentazocine (e.g. Talwin)**
- **Trichloromethiazide**
- **Vermifuges (worm medicines) but not phenothiazine**

Substances that may be administered by any means until 96 hours before the start of the scheduled post time of the race in which the horse is to compete:

- **Acepromazine**
- **Albuterol**
- **Atropine**
- **Butorphanol**
- **Clenbuterol**
- **Detomidine**
- **Glycopyrolate**
- **Guaifenesin**
- **Hydroxyzine**
- **Isoxsuprine**
- **Lidocaine**
- **Mepivicaine**
- **Pentoxifylline**
- **Phenytoin**
- **Pyrilamine**
- **Xylazine**

No other drugs or medications may be administered by any means within 7 days of the scheduled post time of the race in which the horse is to compete.

Horses, which have had a joint aspirated and treated with glucocorticoid steroid injection, may not race for five (5) days after treatment. Whenever such a procedure is performed, the trainer shall notify the stewards of such, in writing, before the horse is entered to race.

ANDROGENIC –ANABOLIC STEROIDS

Externally administered androgenic and /or anabolic steroids are prohibited to be present in horses on race day.

Other Prohibitions

No person shall, attempt to, or cause, solicit, request, or conspire with another or others to:

- **Freeze or ice or apply medicated packs to a horse's leg or legs within the paddock area.**
- **Administer any substance to a horse designated for testing before the horse has been released by the state veterinarian.**
- **Administer nasogastrically, any form of bicarbonate of soda and sugar in any of their forms (milkshaking) 48 hours pre-race.**
- **Administer any blood doping agent including:**

  EPO, Darbepo
  Oxyglobin
  Hemoglobin products
  Products construed as Blood Substitutes

Blood Gas Levels (tCO_2)
(Milkshake Testing)

Trainers are held strictly liable for their horse measuring at or above the following blood gas (tCO_2) threshold levels:

37 mmole/L or greater

The rule establishes penalty guidelines, provides provisions for establishing normal physiological levels, and describes the requirements for pre-race quarantine resulting from a threshold violation (13:71-23.3A or 13:70-14A.14).

Veterinarian (practitioner) Reports
(13:70-19.41 or 13:71-9.2(b))

Upon the request of the Commission, a practicing veterinarian shall furnish the original treatment record(s) and copies of all pertinent objective data and papers, along with a key to any codes, abbreviations and non-English words appearing on such record (s), data and papers, to the Racing Commission or any duly authorized investigators. A veterinarian shall respond to the Commission's request in full within twenty-four (24) hours of notification.

Trainer's Responsibilities
(13:70-14A.6 or 13:71-23.6)

As the absolute insurer of the horse's condition, trainers have the duty and responsibility to be familiar with the medication rules of the NJ Racing Commission. The trainer and his associates are obligated to protect and guard the horse against any administration of any drug not provided for in these rules. No trainer shall start or permit a horse in his custody, care or control to be started if he knows, or he might have known or have cause to believe, that the horse has received any drug or other restricted substance that could result in a positive test.

State of New Jersey

Governor
Jon S. Corzine

NEW JERSEY RACING COMMISSION

Chairman
John J. Tucker

Commissioners
James G. Aaron
Anthony T. Abbatiello
Anthony R. Caputo
Peter J. Confrancesco, III
Noel Love Gross
Francis X. Keegan, Jr.
Edward R. McGlynn
Daniel A. Menaco

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www.state.nj.gov/oag/racing/

U.S. FOOD AND DRUG ADMINISTRATION (FDA)

DRUGS APPROVED FOR USE IN HORSES

U.S. FDA: DRUGS APPROVED FOR USE IN HORSES

				Suggested	
INJECTABLES		INJECTABLES		Withdrawal	INJECTABLES
	Active Ingredients	Brand Names		Time IM	
	Acepromazine Maleate	Prom Ace Injectable (Rx) Promazine Injectable (Rx)		96 hours	
	Allopurinol	Allonet (Rx)			
	Aminopromazine Fumerate	Lanatizine Solution (Rx)			
	Ampicillin Sodium	AmpiEquine (Rx)			
	Benzathine Penicillin G Procaine Penicillin G	Benzaspen (R/O) Bicillin Fortified (Rx) Depo Pen (R/O) Longbal Fortified (Rx) Pfe-Cillin/Dura-Biotic (R/O)			
	Beta-Aminopropionitrile fumerate	Baptan (Rx)			
	Betamethasone Acetate Betamethasone Disodium Phosphate	Betavet Sebaspan Suspension (Rx)		48 hours	
	Betamethasone Dipropionate Betamethasone Sodium Phosphate	Betasone Aqueous Suspension (Rx)		48 hours	
	Boldenone Undecylenate	Equipoise (Rx)			
	Bromphenol Tartrate	Trabuquelo (Rx) Dalmaxx (Rx)		96 Hours	
	Cefiofur Sodium	Naxcel Inj. (Rx)			
	Chloral Hydrate Magnesium Sulfate Pentobarbital	Chloropent (Rx)			
	Deslorelin Acetate	Ovuplant (Rx)			
	Dolasetine Hydrochloride	Dormosedan		96 hours	
	Dexamethasone	Adave Aqueous Suspension (Rx) Adave Solution (Rx) Dexachef (Rx) Dex-A-Vet (Rx) Dexamethasone Injection (Rx) Dexamethasone Solution (Rx) Dexavet Solution (Rx)			
	Dexamethasone Phosphate	Dexamethasone Injection (Rx)			
	Dexamethasone Sodium Phosphate	DexAvet Injection (Rx) Dexamethasone Injection (Rx)			
	Dexamethasone-21-isonicotine	Voren Suspension (Rx)			
	Dihydrostreptomycin Sulfate	Dihydrostreptomycin (Rx) Phenethcillin (Rx)			
	Diazepam Trometamine	Lutalyse Sterile Solution (Rx) Prostin F2 Alpha (Rx) Prostamate (Rx)			
	Doxapram Hydrochloride	Dopram-V Injectable (Rx)			
	Dopamine Synthesis	AH Mastitis (Rx)			
	Ephedrine Lidocaine Hydrochloride	Lidocaine HCl with Epinephrine(Rx)			
	Flumethasone	Amaplex (Rx) Flucort Solution (Rx)			
	Flunixin Meglumine	Banamine Solution (Rx) Flunixin Meglumine Inj. (Rx) Flunixin Meglumine Solution (Rx) Prostan Injection (Rx)		24 hours	Up to 360 mg (1 cc/100 lb. bwt)
	Fluprostenol Sodium	Synchrocept (Rx)			
	Follicle Stimulating Hormone	F.S.H.-P Injectable (Rx)			
	Furosemide	Diuril 5% Injection (Rx) Furosemide Injection (Rx) Lasix Injectable Solution Progo-A-Vet Inj. (Rx)		4 hours	"Furosemide Inj" Up to 400 mg (10cc) I.V. only
	Guaifenesin	Guaifenix (Rx) Guaifenix Injection (Rx) Guaivetin Injection (Rx)		96 hours	
	Hyaluronate Sodium	Hyonate (Rx) Hyvisc (Rx) Hyvisc V (Rx) Legend (Rx) Synvisc (Rx)		48 hours	
	Hyaluronic ACID	Hyvisc (Rx) Hyvisc (Rx)		48 hours	
	Hydrazine Monosalicylate	Isoniazid Equine Inj. (Rx)			

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	Isoflupredone Acetate	Predef 2X (Rx)			
	Ketoprofen	Ketoprofen (Rx)		48 hours	
	Lepreatol Sterile Sol.	Equestrolin (Rx)			
	Mepivacaine Hydrochloride	Mepivacaine HCl Inj. (Rx)		96 hours	
	Methocarbamol	Robaxin Injectable (Rx)		72 hours	
	Methylprednisolone Acetate	DepoMedrol (Rx) Methylprednisolone Acetate Inj. (Rx)			
	Naproxen	Equipoxin 10% Solution (Rx)		48 hours	
	Neostigmine Methylsulate	Stilpen 1560 (Rx)			
	Oleate Sodium	Orbenin Solution 80 mg (Rx)			
	Oxytetr	Paramo (Rx)		48 hours	
	Oxytocin	Oxytocin Injection (Rx) Xyrocin Inject. (Rx)			
	Penicillin G Benzathine Penicillin G Procaine	Combicillin, Combicillin-AG (R/O)			
	Penicillin G Procaine	Pro-Pen G in Aqueous Susp.(R/O)			
	Perphenazine Lactate	Tabatrol (Rx)		72 hours	
	Phenylbutazone	Bicelle Injection 20% (Rx) Butazolidin Injectable (Rx) Equi Bute Injection (Rx) Equizone (Rx) PhenButa Vet Inj. (Rx) Phenylbutazone Inj. (Rx) Rotabone Injectable20% (Rx)		24 hours	Up to 2 grams I.V. only
	Pituitary Luteinizing Hormone	P.L.H. Injectable (Rx)		96 hours	
	Polysulfated Glycosamino-glycan	Adequan Injectable (Rx)		48 hours	
	Procaine Hydrochloride	Procagen (Rx)			
	Promazine	Promazine (Rx)		48 hours	
	Prednisolone Acetate	Prednisolone Susp. (Rx)			
	Prednisolone Sodium Succinate	Prednisolone Inj. (Rx) Solu-Delta Cortef (Rx)		48 hours	
	Prednisone	Meticorten (Rx)		48 hours	
	Procaine Penicillin G	Crystacillin 300 A.S. Veterinary (R/O) Crystalline Pro Penicillin G (Rx) Mitrecillin-Ag (OTC) Procaine Penicillin G (OTC) Penicillin G Procaine (OTC)			
	Promazine Hydrochloride	Promazine Injectable (Rx) Sparine Injection (Rx) Promazine Injection (Rx)		96 hours	
	Propionex	Propionex Solution (Rx)			
	Pyrilamine Maleate	Histacal® (Rx) Prefenamine Maleate Injection (Rx)		96 hours	
	Selenium Vitamin E	SEE (Rx)		24 hours	
	Sodium Penicillin	Aqueous Penicillin Injection (Rx)			
	Sodium Thiamylal	Anacetal Inj. (Rx) Sodium Thiamylal Injection (Rx) Surital (Rx)			
	Stanozolol	Winstrol-V (Rx)			
	Sulfadiazine Trimethoprim	Di-Trim 400, Inj. (Rx) Tribrissen 400 Inj. (Rx)		48 hours	
	Sulfamethazine	Sulfamed Inj. 25% (R/O)		48 hours	
	Tetracycline	Tetracycline Inj. (Rx)			
	Thiabendazole Suspension	Equizole L.A. (Rx)			
	Thiamine Hydrogen	Vitamin B1 (Rx)			
	Tylosine Hydrochloride	Tylosine Injection (Rx)			
	Thiamphenicol Acetamide	Thiamphenicol Susp. (Rx) Amphex Inj. (Rx)			
	Trifluoromethyl Hydrochloride	Vetame Inj. (Rx)			
	Triflupromazine Hydrochloride	Re-ser Injectable (Rx)		96 hours	
	Xylazine Hydrochloride	Anased (Rx) Chanazine Inj. (Rx) Rompun Injectable (Rx) Sedazine (Rx)		96 hours	

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ORAL USE		ORAL USE			ORAL USE
	Altrenogest	ReguMate (Rx)		96 hours	
	Carbendazole	Canivet Horse Wormer Paste 45% (OTC) Canivet Horse Wormer Pellets (OTC) Canivet Suspension Horse Wormer (Rx)		72 hours	
	Clenbuterol Hydrochloride	Ventipulmin Syrup (Rx)		96 hours	Low dose (0.8 mcg/kg bwt) (5cc) twice daily
	Dexamethasone	Azium Solusee (Rx) Azium Oral Solution (Rx) Azium Powder (Rx)			
	Diclorvos	Equigard (OTC)			
	Diloxanine Iodide Piperazine Citrate	Dizan Suspension with Piperazine (OTC)			
	Dorsalazine Succinate	AH Tablets (Rx)			
	Febantel	Rintal Paste (OTC) Rintal Suspension (OTC)			
	Fenbendazole	Panacur Suspension 10% (OTC) Safe-Guard Panacur (OTC) Safe-Guard Panacur Paste (OTC)			
	Flunixin Meglumine	Banamine Granules (Rx) Banamine Paste (Rx)		48 hours	
	Gidectubin	Fulvicin UF Bolus Veterinary (Rx) Fulvicin UF Powder (Rx)		48 hours	
	Iodochlorhydroxyquin	Rheothrap Bolus (Rx)			
	Ivermectin	Equvian (Rx) Equvian Paste 1.8% (OTC) ivomec (Rx) Phenacetin Paste (OTC) Phenacetin Liquid (OTC) Primectin Bolus Oral Liquid (Rx)			
	Levamisole Hydrochloride Piperazine Dihydrochloride	Ripercol L/piperazine (Rx) Ripercol L/piperazine Sol. (Rx)			
	Methyridine	Tolmin Oral Susp. (Rx)			
	Mebendazole Trichlorfon	Telmin S (Rx) Telmin S Paste (OTC)			
	Morantel Tartrate Acid	Rumatel (Rx)		48 hours	
	Moxidectin	Cydectin Oral Gel (OTC)			
	Naphthalene	Equiverm Granules (Rx)		48 hours	
	Oxfendazole	Synanthic (Rx)		24 hours	
	Oxibendazole	Benzimidin/Pyrantel Powder (RVC) Benzimidin/Pyrantel Horse Wormer Pellets (RVC) Benzimidin/Pyrantel Paste (RVC) Benzimidin/Pyrantel Susp. (RVC)			
	Oxibendazole Trichlorfon	Benzimidin Plus Paste (OTC)			
	Oxibendazole	Anthelcide EQ Paste (OTC) Anthelcide EQ Suspension (Rx)			
	Phenothiazine PiperazineCarbon Disulfide	Parvex Plus (Rx)			
	Phenothiazine Piperazine Dihydrochloride Trichlorfon	Dyvex T.F. (Rx)			
	Phenylbutazone	Biodin Tablet/Boluses (Rx) Butazon Gel (Rx) Butazolidin Granules (Rx) Butazolidin Bolus (Rx) Butazolidin Paste (Rx) Equi Bute Tablets (Rx) Equiphen Paste (Rx) Equiphenone (Rx) PhenButazol Tablets (Rx) Butalone-V (Rx) Tovradyne (Rx) Thyrazone Tablets (Rx)		48 hours	
	Piperazine Adipate	Piperazine Adipate 100% (OTC)			
	Piperazine Carbon Disulfide	Parvex Bolus (OTC) Parvex Suspension (Rx)			
	Pyrantel	Strongid (Rx)			
	Piperazine Hydrochloride	Piperazine Granules (Rx)			
	Pyrantel Pamoate	Banminth-P Paste (OTC) Strongid T (RVC)			

	Pyrantel Tartrate	Banminth (5.66 gm) (OTC) Continuex (OTC) Pyrantel Tartrate Premix (OTC) Purina Horse & Colt Wormer Med (OTC) Strongid C (OTC)		
	Sulfamethazine	Sulmet (OTC)	48 hours	
	Thiabendazole	Equizole A Packets (Rx) Equizole Horse Wormer (Rx) Equizole 50% Horse Wormer Paste (OTC) Purina Horse Wormer Medicated (OTC) Thibenzole 300 Medicated (OTC	72 hours	
	Thiabendazole Piperazine Phosphate	Equizole A (Rx)		
	Thiabendazole Piperazine Citrate	Equizole A Liquid (Rx)		
	Thiabendazole Trichlorfon	Equizole B (Rx)		
	Thiostrepton	Thiotex Granules (OTC) Thiotex Paste (OTC)		
	Thymidylone Acetamide	Vetalog Oral Powder (Rx)		
	Trichlorfon	Dyrex Cap Tab 500 (Rx) Purina Bot Control (OTC)		
	Trimethoprim Sulfadiazine	Di Trim 400 Paste (Rx) Tribrissen 400 Oral Paste (Rx) Uniprim Powder (Rx)	48 hours	
	Balsam Peru Oil Trypsin	Trypzyme Aerosol (OTC)		
	Chlorhexidine Diacetate	Nolvasan Germicidal Ointment (OTC)		
	Balsam Peru Oil Trypsin	Trypzyme Aerosol (OTC)		
	Chlorhexidine Diacetate	Nolvasan Germicidal Ointment (OTC)		
	Copper Methionate	Kopertox (OTC) Thrivet2X (OTC)		
	Quinacrine	Vetalog Topical 0.8% Cream (Rx)		
	Dimethyl Sulfoxide	Domosa Sol (Rx) Dermasol Sol. (Rx	24 hours	Topical applications only
	Furazolidone	Furoxi Aerosol Powder (OTC) Topazone Aerosol Powder (OTC)		
	Isoflupredone Neomycin Sulfate	Neo Predef Eye/Ear Topical Ointment (Rx)	48 hours	
	Isoflupredone Acetate Tetracaine Hydrochloride Neomycin Sulfate	Tilpred Ointment (Rx)	96 hours	
	Nitrofurazone	Furo Ointment (OTC) Furoxiplus (OTC) Nitrofurazone Powder (OTC) Nitrofurazone Ointment (OTC) Nitrofurazone Dressing (OTC) NFZ Dressing (OTC) NFZ Wound Powder (OTC)		
	Nitrofurazone	Dermofur (Rx)		
	Oxytetracycline Hydrochloride Polymyxin B Sulfate	Terramycin Ophthalmic Ointment (OTC)		
INHALATION USE		INHALATION USE		INHALATION USE
	Aminosalicylic Sulfate	Tubasal (Rx)	96 hours	
	Halothane	Fluothane (Rx)		
	Isoflurane	Aerrane (Rx) Isoflurane, USP (Rx) Isoflo (Rx)		
INTRAUTERINE USE		INTRAUTERINE USE		INTRAUTERINE USE
	Amikacin Sulfate	Amikgyllo V (Rx) Amikacin Intrauterine (Rx)	96 hours	
	Chlorhexidine Diacetate	Nolvasan Teat/Suspension (OTC)		
	Gentamicin Sulfate	Gentocin Solution (Rx) Gentamicin Intrauterine (Rx) Gentamicin Sulfate Solution (Rx) Gentocin 100 Intrauterine (Rx) Gentamicin Sol. (Rx)	96 hours	
	Sulfamethazine	Sulmet Drinking Water (OTC)	48 hours	

5

CHARLES TOWN

HORSEMEN'S Benevolent and Protective Association Inc.
PO BOX 581 CHARLES TOWN, WV 25414
PHONE 304-725-1535 FAX 304-728-2113
E-Mail cthbpa@earthlink.net

West Virginia Racing Commissioners
106 Dee Drive
Charleston, WV 25311

July 6, 2010

Dear Commissioners,

Please find enclosed the "Public Comment" of the Charles Town HBPA. We commend Kelli Talbott for the intense and tireless work she has put forth bringing this document to the stage of final draft and initiation of the rulemaking process by filing the same with the West Virginia Secretary of State.

Even though we have gone through numerous re-writes, I continue to find minor issues that I have overlooked while focusing on the larger matter at hand. We all want these to be the best rules for Thoroughbred racing possible. At the Commission's request, I am available to answer any questions or clarify any of our rule modification requests.

There have been many meetings between the WV Breeders, the practicing Veterinarians, the Mountaineer HBPA and the Charles Town HBPA to reach an agreement on what we collectively believe the proposed rules should embrace. We are in concert with the changes seen as important to each group. Certainly there is some overlap but each group has its own individual place (and problems) in Thoroughbred racing.

In the schedule of penalties we request that you maintain the current practice of a warning instead of a fine or loss of purse in Class IV and Class V, and the first offense for Class III since Clenbuterol has been moved to Class III. The loss of purse is the stiffest financial penalty in racing and is levied primarily against the owner who usually has no knowledge of the trainer's actions. The trainer, not the owner, is the absolute insurer under the Rules of Racing everywhere, including West Virginia.

Sincerely,

Leonard C. Hale

Leonard C. Hale
Executive Director
Charles Town HBPA, Inc.

2.1 **Add ... sire and registered with the West Virginia Thoroughbred Development Fund.**

This is the last requirement to be eligible for the fund 178.1-58.3

Refer to the letter from the WV Thoroughbred Breeders Association

2.20. Change definition of "Breeder of an accredited West Virginia" horse by changing the word "foal" to "mare"

But 2.19 defines breeder as the owner of the horse's dam at the time of foaling.

Refer to the letter from the WV Thoroughbred Breeders Association

* * *

2.68. Change definition of "Owner of an Accredited West Virginia" horse by changing it to "owner of record of the stallion"

Refer to the letter from the WV Thoroughbred Breeders Association

* * *

6.3. When a person is excluded from a racetrack or is suspended, he or she is not 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 at that racetrack or in that of any other person until the stewards rescind their penalty. (Request to add the underlined language.)

This was meant to clarify that an exclusion was for the track which issued the exclusion not other states or other tracks within the state. This would not apply to suspensions by the Stewards.

* * *

8.5.g. The stewards may impose one of the following penalties or any combination of two or more of the following penalties on a permit holder for a violation of these rules:

8.5.g.1. issue a reprimand;

8.5.g.2. assess a fine not to exceed ~~five thousand dollars ($5,000.00) per violation~~ two thousand five hundred dollars ($2.500.00).

Request to omit language stricken through and to add language that is underlined.

This was intended to reduce the maximum fine from $5,000 to $2,500.

* * *

15.3. **Starter's List.** No thoroughbred shall be permitted to ~~start~~ enter in a race unless approval is given by the starter. The starter shall maintain a starter's list of all thoroughbreds which are ineligible to be entered in any race because of poor or inconsistent behavior or performance in the starting gate. A thoroughbred on the starter's list shall be refused entry until it has demonstrated to the starter that it has been satisfactorily schooled in the gate and can be removed from the starter's list. Schooling shall be under the direct supervision of the starter or an assistant. The starter shall provide copies of the starter's list to the stewards and the association's racing secretary, including information pertaining to the thoroughbreds that are schooled sufficiently to be permitted to run.

(Request to omit word stricken through and add word underlined.)

Line 4 of 15.3 says a Thoroughbred on the Starter's List will be refused entry. He cannot start if he's not entered. These rules are in conflict as written.

* * *

27.4.q. No trainer shall move or permit to be moved any horse or horses under his or her custody, care or control into ~~or out of~~ the association's grounds without permission from the association's racing secretary or designee.

We need the latitude to decide when a horse needs to go to the farm after a race or workout for a recuperation period before returning to the track. We feel that the trainer should be training the horse not the association.

30.1.b. 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 Stewards approve the additional occupational permit. A jockey agent ~~or his or her spouse~~ shall not be an owner or trainer of any race horse nor shall he or she have any interest in the ownership of a horse.

A jockey's spouse is allowed to own horses we see no reason to exclude an agent's spouse from ownership of a race horse.

40.1.f. A horse must be eligible at the time of ~~starting~~ entry.

Request to omit word stricken through and add word underlined.

See 40.1.a, 40.1.b or delete 40.1.F

* * *

40.8.d. ~~A horse which draws into a straightaway race from the also-eligible list shall start from the post position vacated by the scratched horse. In the event more than one horse is scratched, post positions of horses drawing in from the also-eligible list shall be determined by public lot.~~

We do not have rules for Quarter Horse Racing in West Virginia

* * *

43.3. Scale of Weights.

43.3.a. With the exception of apprentices, no jockey shall be assigned a weight of not less than one hundred and ~~eighteen (118) pounds~~ one hundred and sixteen (116) pounds including safety equipment.

Our horsemen feel that excessive weight will lead to more breakdowns in Thoroughbred racing.

* * *

46.6.a. ~~Horses shall be in the paddock at least twenty (20) minutes before post time unless otherwise authorized by the Stewards.~~

This is a physical impossibility for Charles Town. Please refer to your State Steward.

49.2.d. Veterinarians shall not have contact with an entered horse on a race day except for the administration of furosemide (lasix®) under the guidelines set forth subsection 50.7. of this rule unless approved by a Racing Commission veterinarian.

Request is to strike this language completely.

Refer to Dr. Keith Berkeley's letter

* * *

49.4.a. The possession or use of a drug, substance or medication on the premises of a facility under the jurisdiction of the Commission for which a recognized analytical method has not been developed to detect and confirm administration of such substance; or the use of which may endanger the health and welfare of the horse or endanger the safety of the rider; or the use of which may adversely affect the integrity of racing; or

Refer to Dr. Keith Berkeley's letter

* * *

50.3.e. Any drug or metabolite thereof found to be present in a pre- or post-race sample which is not classified in the Uniform Classification Guidelines of Foreign Substances as promulgated by the Association of Racing Commissioners International (RCI) (revised January 2010), set forth in table 178-1 D at the end of this rule shall be assumed to be a Class 1 drug and the trainer and owner shall be subject to those penalties for Class 1 drug violations as set forth in table 178-1 D at the end of this rule, unless satisfactorily demonstrated otherwise by the Racing Medication and Testing Consortium (RMTC).

Refer to Dr. Keith Berkeley's letter

* * *

50.4. Medication Restrictions.

See letter from Mountaineer HBPA. Re: The threshold levels in other racing jurisdictions.

Refer also to Dr. Keith Berkeley's letter

* * *

50.5. Medical Labeling. The following provisions apply to medical labeling:

50.5.a. No person on association grounds where horses are lodged or kept, excluding practicing veterinarians, shall have in or upon association grounds which that person occupies or has the right to occupy, or in that person's personal property or effects or vehicle in that person's care, custody or control, a drug, medication, chemical, foreign substance or other substance that is prohibited in a horse on a race day unless the product is labeled in accordance with this subsection.

50.5.b. Any drug or medication which is used or kept on association grounds and which, by federal or state law, requires a prescription must have been validly prescribed by a duly licensed veterinarian, and in compliance with the applicable state statutes. All such allowable medications must have a prescription label which is securely attached and clearly ascribed to show the following:

50.5.b.1. The name of the product;

50.5.b.2. The name, address and telephone number of the veterinarian prescribing or dispensing the product;

50.5.b.3. The name of each patient (horse) for whom the product is intended/prescribed;

50.5.b.4. The dose, dosage, duration of treatment and expiration date of the prescribed/dispensed product; and

50.5.b.5. The name of the person (trainer) to whom the product was dispensed.

(The requesting party says that this rule will increase the cost of veterinary care.)

See letter from Mountaineer HBPA. Re: The threshold levels in other racing jurisdictions.

Refer also to Dr. Keith Berkeley's letter

Where there is a positive, that stable is automatically "shookdown" by order of the State Stewards. All meds are confiscated, even those with labels, to be tested. Why create a rule this unenforceable with an added expense to all?

* * *

50.10. Environmental Contaminants and Substances of Human Use. The following provisions apply to environmental contaminants and substances of human use:

50.10.a. It is recognized that there are substances that can be environmental contaminants in that they are endogenous to the horse or that they can arise from plants traditionally grazed or harvested as equine feed or are present in equine feed because of contamination during the cultivation, processing, treatment, storage or transportation phases. It is also recognized that there are drugs of human use and addiction and which could be found in the horse due to its close association with humans. Therefore, if an owner/trainer wishes to contest a positive test by presenting a defense that the test is the result of environmental contamination or inadvertent exposure due to human drug use, he or she must prove such defense by a preponderance of evidence presented in a hearing. If an owner/trainer proves such defense by a preponderance of evidence, it may be considered as a mitigating factor in any disciplinary action taken against the affected owner/trainer.

50.10.b. Although caffeine may be found in a horse due to environmental contamination/inadvertent exposure, no sample or specimen shall exceed the level of 100 nanograms per milliliter of serum or plasma when tested post race.

"It is felt that the Racing Commission should have to prove that a trace amount is a sufficient amount to have a pharmacological effect to alter the outcome of a race before a positive is called.

* * *

50.11.d. If a test on a horse exceeds the above-referenced urine thresholds for Boldenone, Nandrolone or Testosterone and the owner/trainer of the horse desires to have further testing to

determine whether or not there is reliable proof that the amount found in the horse is naturally occurring, the owner/trainer may request that such testing be undertaken and the owner shall bear the costs of the additional testing.

The CTHBPA suggests "The proposal would be to test for man-made steroid Stanozolol but limit the administration of naturally occurring steroids Boldenone, Naandrolone and Testosterone to fourteen (14) days before a race (currently 24 hours).

Refer to Dr. Keith Berkeley's letter

* * *

50.13. Out of Competition Testing for Blood and/or Gene Doping Agents. The following provisions apply to out of competition testing for blood and/or gene doping agents:

The CTHBPA suggests "This would be acceptable if there were no automatic penalties. Horses are shipped in to trainers and the trainer has no way to know what substances have been used on that horse.

Refer to the Mountaineer HBPA letter

* * *

51.3.a. All blood and urine specimens shall be frozen and forwarded to an official chemist by a Racing Commission veterinarian or his or her designee. The racing association shall pay all laboratory expenses for blood and urine analysis. ~~In the event that the laboratory analysis of blood or urine specimen reveals the presence of a prohibited substance in violation of this rule, the association may assess the laboratory expenses against the horsemen's bookkeeper's account of the owner of the horse.~~

51.3.b. Specimens of other bodily substances or tissues may be collected and forwarded to an official chemist by a Racing Commission veterinarian or his or her designee. The Racing Commission shall pay all laboratory expenses for analysis of such bodily substances or tissues. ~~In the event that the laboratory analysis of a bodily substance or tissue reveals the presence of a prohibited substance in violation of these rules, the Racing Commission may assess the laboratory expenses against the horsemen's bookkeeper's account of the owner of the horse.~~

The owner, under current rules, pays for a split sample if there is a positive. This is double jeopardy. Our membership is adamantly opposed to the language approved by the committee.

* * *

53.2.d. ~~The owner of the deceased thoroughbred shall make payment of charges due the practicing veterinarian employed by him to conduct the examination. The services of the Racing Commission veterinarian and the laboratory testing shall be made available by the Racing Commission without charge to the owner.~~

The CTHBPA is not aware of any State Racing Commission that calls for necropsy and then charges the owner. If the owner requests a necropsy that would be a different matter.

CLASS III

LICENSED TRAINER		
1st Offense **(365 day period in any jurisdiction)**	**2nd Offense** **(365 day period in any jurisdiction)**	**3rd Offense** **(365 day period in any jurisdiction)**
~~Minimum thirty (30) day suspension absent mitigating circumstances. The presence a aggravating actors could be use to impose a maximum of a sixty (60) day suspension.~~ Warning **AND** Minimum fine of $250 absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum fine of $5,000.00. **AND** May be referred to the Racing Commission for any further action deemed necessary by the Commission.	Minimum sixty (60) day suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a ninety (90) day suspension. **AND** Minimum fine of $500.00 absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum fine of $1,000.00. **AND** May be referred to the Racing Commission for any further action deemed necessary by the Commission.	Minimum ninety (90) day suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of one hundred twenty (120) day suspension. **AND** Minimum fine of $1,000.00 absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum fine of $5,000.00. **AND** May be referred to the Racing Commission for any further action deemed necessary by the Commission.

LICENSED OWNER		
1st Offense **(365 day period in any jurisdiction)**	**2nd Offense** **(365 day period in any jurisdiction)**	**3rd Offense** **(365 day period in any jurisdiction)**
~~Disqualification and loss of purse.~~ **AND** Horse must pass a Racing Commission approved examination before becoming eligible to be entered.	~~Disqualification and loss of purse.~~ **AND** Horse must pass a Racing Commission approved examination before becoming eligible to be entered.	~~Disqualification, loss of purse and $2,500.00 Fine~~ **AND** Horse must pass a Racing Commission approved examination before becoming eligible to be entered.

West Virginia Rules of Racing declare that a trainer is the absolute insurer and we feel the owner category of penalties should be deleted in its entirety. The loss of purse is probably the stiffest penalty in racing and the owner is rarely the cause of the infraction.

CLASS IV

LICENSED TRAINER		
1st Offense **(365 day period in any jurisdiction)**	**2nd Offense** **(365 day period in any jurisdiction)**	**3rd Offense** **(365 day period in any jurisdiction)**
~~Minimum fifteen (15) day suspension absent mitigating circumstances. The presence o aggravating factors could be used to impose a maximum of a thirty (30) day suspension.~~ Warning **AND** No Fine. **AND** May be referred to the Racing Commission for any further action deemed necessary by the Commission.	Minimum thirty (30) day suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a forty-five (45) day suspension. **AND** Minimum fine of $500.00 absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum fine of $1,000.00. **AND** May be referred to the Racing Commission for any further action deemed necessary by the Commission.	Minimum forty-five (45) day suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a sixty (60) day suspension. **AND** Minimum fine of $1,000.00 absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum fine of $2,000.00. **AND** May be referred to the Racing Commission for any further action deemed necessary by the Commission.

LICENSED OWNER		
1st Offense **(365 day period in any jurisdiction)**	**2nd Offense** **(365 day period in any jurisdiction)**	**3rd Offense** **(365 day period in any jurisdiction)**
~~Disqualification and loss of purse.~~ **AND** Horse must pass a Racing Commission approved examination before becoming eligible to be entered.	~~Disqualification and loss of purse.~~ **AND** Horse must pass a Racing Commission approved examination before becoming eligible to be entered.	~~Disqualification, loss of purse and $1,000.00~~ **AND** Horse must pass a Racing Commission approved examination before becoming eligible to be entered.

CLASS V

LICENSED TRAINER		
1st Offense (365 day period in any jurisdiction)	**2nd Offense (365 day period in any jurisdiction)**	**3rd Offense (365 day period in any jurisdiction)**
~~Minimum fine of $300.00 absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum fine of $500.00.~~ Warning	Minimum fine of $500.00 absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum fine of $1,000.00.	Minimum fifteen (15) day suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a thirty (30) day suspension. **AND** Minimum fine of $1,000.00 absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum fine of $2,500.00.

LICENSED OWNER		
1st Offense (365 day period in any jurisdiction)	**2nd Offense (365 day period in any jurisdiction)**	**3rd Offense (365 day period in any jurisdiction)**
Warning	~~Disqualification and loss of purse.~~ **AND** If same horse as 1st offense, horse shall be placed on veterinarian's list for fifteen (15) days and must pass Racing Commission approved examination before being eligible to run.	~~Disqualification, loss of purse.~~ **AND** If same horse as 1st &2nd offense, horse shall be placed on veterinarian's list for thirty (30) days and must pass Racing Commission approved examination before being eligible to run.

6

Schay Swope, DVM
P.O. Box 189
Ranson, WV 25438
(304)-724-8080

July 1, 2010

West Virginia Racing Commission
106 Dee Drive, Suite 2
Charleston, WV 25311

To Whom It May Concern:

I would like to thank you for your time in allowing public commentary of the proposed new rules of racing in West Virginia.

As a practicing veterinarian in West Virginia I worked for the Racing Commission for 2 years as well as worked in private practice at Charles Town Races and in the reproduction industry. Therefore I feel that I understand the challenges involved for the Racing Commission, trainers and owners.

I am concerned that some of the new rules would actually discourage necessary treatment of medical conditions. For example, [illegible] substances are considered to have no known therapeutic value to the horse and many [illegible] with good reasons [illegible] and [illegible] are currently not classified under [illegible] Schedules. Most equine practitioners blanketly [illegible] I would like to see the racing industry [illegible] that are [illegible] and keep [illegible] [illegible] with the existing harsh penalties [illegible] and [illegible] could [illegible] owners and trainers [illegible] the decisions and establish reasonable withdrawal times so that fair testing and penalties can be set forth.

I also feel that the new harsher penalties on Class IV and V medications will put further undue hardship on owners. As a veterinarian in the reproduction industry I see the number owners in the thoroughbred industry has steadily declined. I put more burden on the owners that want to properly treat their horses with therapeutic medications would not only be harmful to the horses by discouraging proper treatment but it could also further discourage owners at a time when we definitely need to promote and strengthen our industry.

Thank you again for your sincere time and consideration in listening to my concerns. I trust that we can all come together to create new rules that will serve to strengthen and promote the Racing Industry, Horsemen and Thoroughbred Horses in West Virginia.

Yours truly,

Schay Swope, DVM
Office Manager
Resident Veterinarian

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Proposed New WV Rules of Racing –

Repeals and replaces WV 178CSR 1, effective April 6, 2007.
Public Comment period ending July 8, 2010

Chairman Joe Smith
West Virginia Racing Commission
106 Dee Drive
Charleston, WV 25311

WVRC JUL '10 PM 1:00

Chairman Smith,

Following are my comments, made during the public comment period, on the proposed Thoroughbred Racing Rules.

Definitions

178-1-2.1 "Accredited thoroughbred horse" means a horse that is foaled in West Virginia or sired by an accredited West Virginia sire.

Comment: There is a problem with the definition of "Accredited thoroughbred horse". The problem is that there is NO clear cut definition of the word "Accredited".

(WV Code 19-23-3 defines "accredited" like 178-1-2.1.)
Then **178-1-58.3** states **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.**
(WV Code 19-23-13b Monies withheld by an association or licensee shall be deposited in a WVRC Special Account – West Virginia Thoroughbred Development Fund.)

Comment: It appears that the intent was to make "Accredited" mean, entered into the WVTD Fund and therefore eligible for restricted races and awards. Also, 178-1-58.3 states that horses must be registered with the WVTB association to be eligible to participate in the Development Fund. Presently the WVTB Association keeps the registration fees they accrue. It would appear that is illegal. Why would monies spent to enter a horse into the TB Development Fund be used by a private association to fund their operation? The breeders should use their own where withal to find a revenue stream to run their organization.

2.7 Comment: Add – or, where appropriate a Racetrack.

2.20 Comment: Change foal to mare.

2.58 Comment: Means a person authorized to pre enter (nominator) to a race.

2.68 Comment: Record of the stallion at the time.

2.92 Comment: WHERE IS THE PUBLISHED, APPROVED, PROTOCAL THAT SATISFIES THE PROTECTIONS OF THE FOURTH AMENDMENT TO THE US CONSTITUTION?

2.93 Comment: Reasonable cause/Reasonable suspicion testing if used by this Commission to violate permit holders civil rights might cause the Commission considerable problems.

2.101 Comment: Add – and meets the minimum number of races approved by the WV Racing Commission.

178-1-6.1 Comment: Should read - **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 or) the Racing Commission. However, all occupational permit holders who are ejected have the right of appeal** (with just cause and due process) **to the Racing Commission.** – (Unlicensed patrons may be readmitted by the Association – Permit Holders may be readmitted by the West Virginia Racing Commission.)

6.3 Comment: "To enter, or run any horse in any race at subject racetrack either" 8.5g, 8.5g.2-3-4-5-6-7.
$5000 is tremendously excessive for stewards.
8.5g.5 Indefinite is ridiculous authority for stewards.
8.5g.6 The Commission issues – the Commission should revoke.

9.4 Comment: Add – Unless otherwise stated.

15.3 Comment: Substitute enter for start.

25.3.b.5 Comment: Has the random testing protocol been found to satisfy the 4th Amendment?

25.3.c Comment: Testing must satisfy the 4th Amendment.

25.3.d Comment: Will not satisfy the 4th Amendment.

25.7.a Comment: Expires on Dec 31st of year of <u>issuance</u>.

25.7.b Comment: Strike Stewards in 3rd line.

29.1.f Comment: Why should jockeys be allowed to gallop horses and be paid when trainers, grooms, exercise riders, etc. are denied access to the grounds?

40.1.f Comment: This should be <u>deleted</u> – since it is covered in 40.1.a **A horse shall not be qualified to start in any race unless the horse has been entered and continues to qualify for the race in which it has been entered.**

51.1.j Comment: Must Have Probable Cause.

53.2 Comment: The Racing Commission cannot order an owner to pay for a necropsy/examination, if the owner does not believe it is necessary.

Comment: The following are **new rules that should be included** in the Rules of Racing.

1. **Co-habitants shall enter only one horse per race.**
   Comment: This will stop trainers from taking unfair advantage such as earning money to allow their horses into WV Breeders races, etc. where others cannot earn this money and are subsequently excluded. There is no Common-Law in WV. When you enter two or more horses in a race it keeps out others and it may take additional money from the 10-10-10 and WV Development Fund. There was once a rule to limit this unfairness.

2. **A horse shall be entered in only one race per day.**
   Comment: On June 19th at Charles town, there were two horses that were allowed to enter two different races each. These were stake races where a horse is allowed to scratch with no penalty up to 45 minutes before a race. Trainers in four races did not know who they were running against. Also eligible horses were not given a chance to draw in to a race and if they would have, they would draw in to the 10 hole in a 6 ½ or 7 furlong race. (This is a great disadvantage at Charles Town.)
   There was no rule to not allow this to happen. **Charles Town Lucked Out.** What if, all 10 horses in one race would have entered in several races? You might have had to cancel a race or two or three because the trainers opted to all run in different races.

   Several years ago, a trainer in the WV Breeders Classics races entered and paid a nomination fee in two races because he didn't know which race he would have enough money to run in. In order to get your nomination fee back, you have to enter a race and be excluded. He tried to enter two races so he could get his nomination fee back in one of them and he was not allowed to enter two races in one day. This was a good rule then and definitely should be a good rule now!

   Many racetracks have rules that say you can only enter at one racetrack a day. Trainers caught doing this are often times scratched and fined.

Thanks for your consideration of these rule changes.

Sincerely,

Dick Watson - WV Owner/Trainer/Breeder
PO Box 953
Charles Town, WV 25414

jadiwatson@comcast.net

RAMBLEWOOD FARM

Janene & Dick Watson
PO Box 953
Charles Town, WV 25414

Phone: 304-725-6016
Fax: 304-725-6016

E-mail: jadiwatson@comcast.net

Fax Transmittal Form

To:
Chairman Joe Smith
West Virginia Racing Commission
106 Dee Drive
Charleston, WV 25311

From: Dick Watson

Date Sent: July 6, 2010

Number of Pages
Including cover page: 2

Message:

Having just seen a Mountaineer Condition Book, I would like to add the attached page 23 to my public comments on the New Rules. This will verify Mountaineer's approval of a new rule to be written that states: No horse shall be carded in two races on the same day (including stakes).

Woodlawn Casino Racetrack Resort

SIXTY-FOURTH DAY – Tuesday, June 29, 2010
(Entries Close on Saturday, June 26, 2010)
(Scratch Time 6:00 PM Saturday, June 26)

1 FIRST RACE — ALLOWANCE
Purse $22,460. For Three Year Olds And Upward Which Have Never Won Two Races.
Three Year Olds ... 118 lbs. Older ... 123 lbs.
Non-winners of a race since May 29 ... 2 lbs.
A race since April 29 ... 4 lbs.
(Claiming races for $30,000 or less not considered in assessing allowances)
FOUR AND ONE HALF FURLONGS (Turf)
(If necessary will be run SAME DISTANCE Main Track)

2 SECOND RACE — STARTER ALLOWANCE
Purse $16,600. For Three Year Olds And Upward Which Have Started For A Claiming Price Of $5,000 Or Less In 2009-2010.
Three Year Olds ... 118 lbs. Older ... 123 lbs.
Non-winners of two races since April 29 ... 2 lbs.
A race since then ... 4 lbs.
(Claiming races for $ 0,000 or less not considered in estimating allowances)
Winners other than maiden for a claiming price of $12,500 or more since December 29, 2009 preferred)
SEVEN FURLONGS (Turf)
(If necessary will be run SIX FURLONGS Main Track)

3 THIRD RACE — CLAIMING
Purse $12,700. For Fillies And Mares Three Years Old And Upward.
Three Year Olds ... 113 lbs. Older ... 123 lbs.
Non-winners of two races at a mile or over since April 29 ... 2 lbs.
Such a race since then ... 4 lbs.
CLAIMING PRICE $5,000
ONE MILE AND SEVENTY YARDS (Turf)
(If necessary will be run SAME DISTANCE Main Track)

4 FOURTH RACE — CLAIMING
Purse $9,800. For Three Year Olds And Upward Which Have Not Won Two Races Since December 29, 2009.
Three Year Olds ... 116 lbs. Older ... 123 lbs.
Non-winners of a race at a mile or over since May 29 ... 2 lbs.
Such a race since April 29 ... 4 lbs.
CLAIMING PRICE $5,000
ONE MILE AND SEVENTY YARDS

5 FIFTH RACE — MAIDEN SPECIAL WEIGHT
Purse $19,600. For Maidens, Fillies Two Years Old.
Weight ... 118 lbs.
FOUR AND ONE HALF FURLONGS

6 SIXTH RACE — CLAIMING
Purse $8,500. For Three Year Olds And Upward Which Have Never Won Two Races.
Three Year Olds ... 118 lbs. Older ... 123 lbs.
Non-winners of a race at a mile or over since May 29 ... 2 lbs.
Such a race since April 29 ... 4 lbs.
CLAIMING PRICE $5,000
ONE MILE AND ONE SIXTEENTH

7 SEVENTH RACE — CLAIMING
Purse $8,700. For Fillies And Mares Three Years Old And Upward Which Have Never Won Three Races.
Three Year Olds ... 118 lbs. Older ... 123 lbs.
Non-winners of a race at a mile or over since May 29 ... 2 lbs.
Such a race since April 29 ... 4 lbs.
CLAIMING PRICE $5,000
ONE MILE AND SEVENTY YARDS

Scratch Time and Naming of Riders for Tuesdays is 6:00 P.M. on SATURDAYS

For Turf Racing Only –
Queen's Plate or Outer Rims permitted. NO TOE GRABS!!!

Woodlawn Casino Racetrack Resort

SIXTY-FOURTH DAY – Tuesday, June 29, 2010
(Entries Close on Saturday, June 26, 2010)
(Scratch Time 6:00 PM Saturday, June 26)

8 EIGHTH RACE — CLAIMING
Purse $9,600. For Fillies And Mares Three Years Old And Upward Which Have Not Won Three Races Since June 29, 2009.
Three Year Olds ... 118 lbs. Older ... 123 lbs.
Non-winners of a race since May 29 ... 2 lbs.
A race since April 29 ... 4 lbs.
CLAIMING PRICE $5,000
FIVE AND ONE HALF FURLONGS

9 NINTH RACE — CLAIMING
Purse $9,100. For Three Year Olds And Upward Which Have Not Won Two Races Since June 29, 2009.
Three Year Olds ... 118 lbs. Older ... 123 lbs.
Non-winners of a race since May 29 ... 2 lbs.
A race since April 29 ... 4 lbs.
CLAIMING PRICE $5,000
SIX FURLONGS

10 TENTH RACE — CLAIMING
Purse $10,200. For Fillies And Mares Three Years Old And Upward Which Have Never Won Two Races.
Three Year Olds ... 118 lbs. Older ... 123 lbs.
Non-winners of a race since May 29 ... 2 lbs.
A race since April 29 ... 4 lbs.
CLAIMING PRICE $10,000, For Each $1,000 To $8,000 ... 4 lbs.
SIX FURLONGS

11 ELEVENTH RACE — MAIDEN CLAIMING
Purse $9,800. For Maidens, Fillies And Mares Three Years Old And Upward.
Three Year Olds ... 118 lbs. Older ... 123 lbs.
CLAIMING PRICE $10,000, For Each $1,000 To $8,000 ... 4 lbs.
ONE MILE

12 TWELFTH RACE — CLAIMING
Purse $8,600. For Three Year Olds And Upward Which Have Not Won A Race Since June 29, 2009.
Three Year Olds ... 118 lbs. Older ... 123 lbs.
CLAIMING PRICE $5,000
FIVE FURLONGS

13 THIRTEENTH RACE — MAIDEN CLAIMING
Purse $8,200. For Maidens, Three Years Old And Upward.
Three Year Olds ... 118 lbs. Older ... 123 lbs.
CLAIMING PRICE $5,000
FIVE FURLONGS

No horse shall be carded in two races on the same day (including stakes).

The overnights with extras (if any) and the condition book with index can be found on Woodlawn Casino Racetrack Resort's home web page at: www.mtrgaming.com

No entries will be TAKEN or PULLED once the entries have been closed - regardless of the size of the field.
THIS RULE WILL BE STRICTLY ENFORCED
THERE WILL BE NO EXCEPTIONS!

Attention Horsemen: (re:Coggins)
Please be reminded that the Blood Drawn Date is the *Official* Coggins Date.

8

Taylor Mountain Farm
347 Old Shennandale Road
Charles Town, WV 25414
Phone (304) 724-8080 Fax (304) 724-8081
www.taylormountainfarm.com

HORSE DEPT. JUL 1 '10 PM 1 1E

June 29 2010

West Virginia Racing Commission
106 Dee Drive, Suite 2
Charleston, WV 25311

To Whom It May Concern:

My name is Jim Casey. I have owned and trained horses at Charles Town since 1963. I am proud to say that I have never had a bad test and certainly hope that I never do. My concern is that due to humen error by grooms or due to the variations in horses metabollisms it is concelvable that anyone could possibly get a bad test. It is for this reason that I believe the proposed penalties are much too harsh. For example, under the present rules, Phenylbutazone is a Class IV medication and is considered to be a therapeutic medication. However it carries a warning on the first offence with a $100 dollar fine and the second offense according to the new rules would be a loss of the purse and a 15 day suspension. Other substances such as Dandelions which currently have no proven therapeutic effects would carry the same penalty. It is possible that when one of my horses grazes at the farm, Dandelions could easily be eaten. There is currently no scientic data that show how long Dandelions could stay in a horses system. This new rule would therefore harshly penalize trainers that turn horses out for rest.

It is my sincere hope that the Racing Commission will adopt the recommendations of the Veterinarians, Horse Associations and the Breeders Association. I know that we all want to catch real culpnts who abuse medications such as pain killers and cause damage to the horses and the racing industry. I don't believe that it is beneficial to punish the honest Horsemen and Trainers who are trying to do the best thing for their horse and stay within the Rules of Racing.

Thank you for your time and consideration in these matters and with the best in Racing I remain,

Sincerely,

James W. Casey

James W. Casey
Owner
Trainer

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E-Mail: casey@us.net
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www.equinehorsevet.com

JAMES M. CASEY, D.V.M., M.S.
EQUINE PRACTITIONER AND SURGEON
8301 FROSTWOOD DRIVE ♦ LAUREL, MARYLAND 20724

WVRC 07JUL'10 AM10:52

July 6, 2010 Via FedEx: 8714 5062 6474

Chairman Joe Smith
West Virginia Racing Commission
106 Dee Drive
Charleston, WV 25311

Re: Purposed Thoroughbred Rules

Mr. Chairman and Members of the Racing Commission:

As member of the thoroughbred rules committee, I do not support large sections of the proposed thoroughbred rules.

It was very disappointing the West Virginia Racing Commission cancelled the meeting with the horsemen and practicing veterinarians that was planned to discuss the proposed thoroughbred rules.

The rules committee did not and does not as a whole have the understanding or expertise to formulate these rules in a number of areas; mainly, the daily routine and care of horses. In fact, I am the only member of the committee who breds, owns, or trains horses that may race in the State of West Virginia. A further examination reveals that no other member, other than me, physically touches a horse that races in West Virginia.

Since an open discussion with the West Virginia Racing Commission, regarding the thoroughbred rules is not being allowed, then the only other avenue available is to send you the issues with this serious, flawed proposed legislation, as I see them, in writing.

Failure to make changes in the proposed rules, in my opinion, will be detrimental to the sport of horseracing and likely to end it as we know it in West Virginia.

Enclosed with this letter are a number of prepared documents.

Document # 1: is an example of how absurd and out of touch with reality these proposed rules are. I call this the "Dandelion Police". Under the thoroughbred rules, if a horse would eat a dandelion in a pasture or eat a dandelion baled up in hay, both of which are very common, would result in

- disqualification (loss of purse)
- suspension of the trainer
- excessive fine

All this for the horse eating dandelions (grazing on grass), which would have absolutely no affective change in the horse's performance. **With rules like this, we will not have horseracing in West Virginia.**

Document # 2: is another example of how these proposed West Virginia thoroughbred rules are way out of alignment with surrounding states. Ventipulmin Syrup is a trade name for the drug Clenbuterol. Clenbuterol helps treat horses with allergies, mild respiratory infections, etc. Under our current rules in West Virginia, our penalties are rather harsh. Ventipulmin Syrup (Clenbuterol) can result in a lose of purse, a fine, and a 15 day suspension. Under the new rules, Ventipulmin Syrup (Clenbuterol) can result in:

- lose of purse
- instead of a $500 fine, the new fine would be up to $7,500 (owner/trainer)
- instead of the current 15 days suspension, up to a suspension of 120 days

This is totally ridiculous for a medication that is used chiefly to treat allergies to carry such penalties. In comparison to the neighboring state of Pennsylvania, Ventipulmin Syrup (Clenbuterol) is a permitted medication provided that it is not administered closer than 48 hours before a race. In Pennsylvania, as long as Ventipulmin Syrup (Clenbuterol) is administered at least 48 hours prior to a race, there is no lose of purse, no fine, and no suspension. In my professional opinion, the new West Virginia thoroughbred rules with regards to Ventipulmin Syrup (Clenbuterol) should have a 48-hour withdrawal time.

Document # 3: This section simply gives a laundry list of:

- flawed, unrealistic rules
- reasons why these rules are flawed
- possible solutions

Document # 4: Proposed penalties.

For the record, I have held a trainer's license for the past 31 years in West Virginia. Horses I trained have won a number of the West Virginia Breeder Classic Races, along with a host of other races. At no time during the 31-year period have I ever had a positive test with regards to racing horses in West Virginia.

We want good rules and we want consequences for those who do not follow them. The proposed rules and penalizes as currently written:

- do nothing more to catch the real cheaters
- will make it nearly impossible to properly take care of horses regarding therapeutic medications (a therapeutic medication is one that heals and maintains health)
- net result in driving horse racing out of the State of West Virginia

I have provided a more realistic and fair penalty schedule in document # 4

Document # 5: Jockey Weights.

I do not believe there should be any raise in the minimum weight in jockey weights because:

- raising the jockey weights does not solve the jockey weight problem because if someone isn't small enough to start with, then a rule will not make them smaller
- raising the jockey weights will make the problem worse because more people will try to get down to the higher jockey weights
- currently we have an ample number of jockeys who can make the weight
- raising the weights will put more stress on our horse they do not need.
- at a certain point because of limited tensile tissue strength of horse's legs, the weight exponentially increases the chance of catastrophic breakdowns, injuring both horse and rider.

Document # 5 clearly lays out raising the minimal weights would cause horses to carry weight, at times, over 130 lbs, which is totally unacceptable. Please find a proposed rule in document # 5 or alternatively, please see my letter to the racing commission dated May 10, 2010.

My primary concerns are:

1. The health and wellbeing of horses
2. West Virginia thoroughbred horse industry

My veterinary practice is based in the State of Maryland and I do not practice in West Virginia. I have met with a majority of practicing veterinarians in Charles Town and expressed my concerns to them as well as the West Virginia Horseman's Benevolent Protection Agency (HBPA) and the West Virginia Horse Breeders.

For me, horseracing is primarily a sport that I love dearly. I also own stock in Penn Gaming and obviously want both the tracks and horsemen to succeed. The consequences of these proposed rules will affect everyone's livelihood connected with horseracing. In addition to my comments in this letter and the attached documents regarding rule issues, I ask that you consider the concerns of :

- Charles Town horsemen (HBPA)
- Mountaineer horsemen (HBPA)
- West Virginia horse breeders
- Practicing Equine Veterinarians in West Virginia

Thank you for your time. I would be happy to give any additional assistance to help.

James M. Casey, D.V.M.

James M. Casey, D.V.M.
Member of the Thoroughbred Rules Committee

Enclosures

Dr. Casey's letter to the Racing Commission July 6, 2010

Document # 1:

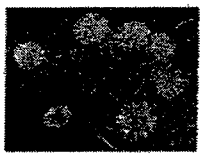
WVRC 07JUL'10 am10:52

is an example of how absurd and out of touch with reality these proposed rules are. I call this the "Dandelion Police". Under the thoroughbred rules, if a horse would eat a dandelion in a pasture or eat a dandelion baled up in hay, both of which are very common, would result in

- disqualification (loss of purse)
- suspension of the trainer
- excessive fine

All this for the horse eating dandelions (grazing on grass), which would have absolutely no affective change in the horse's performance. **With rules like this, we will not have horseracing in West Virginia.**

Dandelion Police



Other problems with the new model rules:

Medications know as stomachics under **50.2.d.16.B.** are class 4 drug offense in the new rules.

A **stomachic** medicine is one that serves to tone the stomach, improving its function and increasing appetite. While many herbal remedies claim stomachic effects, modern pharmacology does not have an equivalent term for this type of action.

Herbs with stomachic effects include:

- Agrimony
- Anise
- Barberry
- Centaurium
- Dandelion
- Elecampane
- Ginseng
- Goldenseal
- Hops
- Holy thistle
- Juniper berry
- Mugwort
- Oregano
- Peach Bark
- Rhubarb
- White mustard seeds
- Rose hips
- Rue
- Wormwood

Since Ginseng, Dandelions, and other herbs under 50.2.d.16.B are considered class 4 for drug violations, then penalties for class 4 drugs should be consistent with what is deemed appropriate for giving a horse an herb such as Ginseng or letting them graze on grass and dandelions.

The purported stomachic mechanism of action of these substances is to stimulate the appetite by increasing the gastric secretions of the stomach, although the actual therapeutic value of some of these compounds is dubious.

Obviously, something like ginseng, dandelions, and other common herbs should not cause any type of penalty.

If dandelions can cause an owner and trainer to be fined, suspended, and lose a purse as currently written into these rules, ridiculous rules such as this will end horseracing in West Virginia.

Dr. Casey's letter to the Racing Commission July 6, 2010

Document # 2:

is another example of how these proposed West Virginia thoroughbred rules are way out of alignment with surrounding states. Ventipulmin Syrup is a trade name for the drug Clenbuterol. Clenbuterol helps treat horses with allergies, mild respiratory infections, etc. Under our current rules in West Virginia, our penalties are rather harsh. Ventipulmin Syrup (Clenbuterol) can result in a lose of purse, a fine, and a 15 day suspension. Under the new rules, Ventipulmin Syrup (Clenbuterol) can result in:

- lose of purse
- instead of a $500 fine, the new fine would be up to $7,500 (owner/trainer)
- instead of the current 15 days suspension, up to a suspension of 120 days

This is totally ridiculous for a medication that is used chiefly to treat allergies to carry such penalties. In comparison to the neighboring state of Pennsylvania, Ventipulmin Syrup (Clenbuterol) is a permitted medication provided that it is not administered closer than 48 hours before a race. In Pennsylvania, as long as Ventipulmin Syrup (Clenbuterol) is administered at least 48 hours prior to a race, there is no lose of purse, no fine, and no suspension. In my professional opinion, the new West Virginia thoroughbred rules with regards to Ventipulmin Syrup (Clenbuterol) should have a 48-hour withdrawal time.

Ventipulmin Syrup (Clenbuterol) is used to treat minor colds and respiratory infections, also treats allergies. It is a very common therapeutic medication.

In Pennsylvania Ventipulmin (Clenbuterol) is a permitted medication. It is recommended to withdraw this medication 48 hours prior to the race. In Pennsylvania, there are no fines, loss of purse, or days associated with this medication when withdrawn 48 hours before a race.

In West Virginia there is a withdrawal time of about 4 days and can result in **a loss of purse and 15 days suspension under current rules.**

Under the new proposed rules, Ventipulmin Syrup (Clenbuterol) is a Class 3 medication and **the penalties now would be:**

- Loss of purse
- Up to 120 days suspension
- Up to a $5,000 fine for the trainer
- Up to a $2,500 fine for the owner

These penalties are totally ridiculous.

West Virginia should have a 48-hour withdrawal time with regards to Clenbuterol to allow its rational use.

Dr. Casey's letter to the Racing Commission July 6, 2010

Document # 3:

#WRC 07JUL'10 AM10:53

This section simply gives a laundry list of:

- flawed, unrealistic rules
- reasons why these rules are flawed
- possible solutions

50.4. Medication Restrictions. The following provisions apply to medication restrictions:

50.4.a. A finding by a Racing Commission approved laboratory of a prohibited drug, chemical or other substance in a test specimen of a horse is prima facie evidence that the prohibited drug, chemical or other substance was administered to the horse and, in the case of a post-race test, was present in the horse's body while it was participating in a race. Prohibited substances include:

In the above rule, unless thresholds are established a trace of anything is a positive. This is what is called "Zero Tolerance". Zero Tolerance is a myth. Today's analytical tests can detect traces of therapeutic medication for months. This trace of therapeutic medication would have absolutely no effect on the horse's performance, but you would still be penalized as an owner and trainer. Also, the above rule does not adequately take into consideration for environmental contaminants.

Later in these rules (50.10.a.) there is a procedure where if one thinks a positive was called due to environmental contaminants and you can prove that this happened due to environmental contaminants, there would be mitigating factors in the penalty phase. Still you are guilty until proven innocent.

Because of the ultra sensitive testing of modern technology, trace should not constitute a positive.

Language needed:

Before any positive test is called a sufficient amount of drug, medication, or substance must be present in the horse, causing a documented pharmalogical effect that would alter the outcome of a race.

This language corrects the problem where trace of anything is a positive, which is needed with today's technology.

50.4.a.1. Drugs or medications for which no acceptable threshold concentration has been established;

The above rule doesn't work because we only have threshold levels for a very few medications at this time.

50.4.a.3. Substances present in the horse in excess of concentrations at which such substances could occur naturally; and

The above rule does not work because there is too much variability with concentrations for natural occurring substances from horse to horse.

50.4.a.4. Substances foreign to a horse at concentrations that cause interference with testing procedures.

The only way we can comply with the above rule would be if the racing commission would provide us a list of substances that at certain concentrations would interfere with testing.

If the commission would do this, we would be happy to comply with this rule.

50.5. Medical Labeling. The following provisions apply to medical labeling:

The above rule would increase the cost of veterinary medicine.

Proposed change to this rule:

As long as a medication is dispensed in its original container, with the original manufacturer's label on the container, this will serve to identify this medication and no additional labeling is needed. If the medication is removed from its original container, then it must be labeled.

51.3. Specimen Collection. The following provisions apply to specimen collection:

51.3.a. All blood and urine specimens shall be frozen and forwarded to an official chemist by a Racing Commission veterinarian or his or her designee. The racing association shall pay all laboratory expenses for blood and urine analysis. In the event that the laboratory analysis of blood or urine specimen reveals the presence of a prohibited substance in violation of this rule, the association may assess the laboratory expenses against the horsemen's bookkeeper's account of the owner of the horse.

51.3.b. Specimens of other bodily substances or tissues may be collected and forwarded to an official chemist by a Racing Commission veterinarian or his or her designee. The Racing Commission shall pay all laboratory expenses for analysis of such bodily substances or tissues. In the event that the laboratory analysis of a bodily substance or tissue reveals the presence of a prohibited substance in violation of these rules, the Racing Commission may assess the laboratory expenses against the horsemen's bookkeeper's account of the owner of the horse.

The above rules require the owner to pay not only for a split sample testing, but also to pay for the original testing if their horse were to test positive. This opens up the horse owner and trainer to nearly unlimited testing at their expense that may lead to a positive for a trace amount of something for which additional penalties would apply.

Rule Change:

The racetracks and the State of West Virginia shall be responsible for all post race testing with the exception of a split sample.

50.13. Out of Competition Testing for Blood and/or Gene Doping Agents. The following provisions apply to out of competition testing for blood and/or gene doping agents:

The above rule allows for the horse of yours to be tested for anything at any time. Even if a horse is not entered in a race this may result in fines, suspension, loss of license for a horse owner and trainer. The big danger here would be a horse shipped to a trainer that has some drug, medication, or substance that was prohibited and the new trainer would have no knowledge of the prohibited drug, medication, or substance but under this rule would be responsible.

Proposed rule change:

No penalties shall apply to out of competition testing.

50.3.e. Any drug or metabolite thereof found to be present in a pre- or post-race sample which is not classified in the Uniform Classification Guidelines of Foreign Substances as promulgated by the Association of Racing Commissioners International (RCI) (revised January 2010), set forth in table 178-1 D at the end of this rule shall be assumed to be a Class 1 drug and the trainer and owner shall be subject to those penalties for Class 1 drug violations as set forth in table 178-1 D at the end of this rule, unless satisfactorily demonstrated otherwise by the Racing Medication and Testing Consortium (RMTC).

The above rule would make anything not classified by their system a Class 1 penalty offense. Class 1 penalties can lead to high fines, years of suspension, and permanent loss of license. Thousands of everyday commonly used drugs, medications, and substances are not on this list. So just because something is not on this list does not make it a bad thing. For example: Adequan, commonly used in horse racing to maintain the health of horse's joints would result in a Class 1 offense.

Rule Change:

The entire above rule needs to be taken out and substituted with a list of banned drugs, medications, and substances that have no accepted therapeutic use in human or veterinary medicine such as drugs classified by the Drug Enforcement Act (DEA) Class 1.

49.4. Prohibited Practices. The following are prohibited practices:

49.4.a. The possession or use of a drug, substance or medication on the premises of a facility under the jurisdiction of the Commission for which a recognized analytical method has not been developed to detect and confirm the administration of such substance; or the use of which may endanger the health and welfare of the horse or endanger the safety of the rider; or the use of which may adversely affect the integrity of racing; or

There is no way that even a person possessing a doctorate level degree in analytical chemistry let alone any horseman that could possess enough knowledge to comply with the above rule.

Proposed change:

The racing commission shall provide an updated accurate list of every drug, medication, or substance for which a recognized analytical method has not been developed and detect and confirm the administration of such drug, medication, or substance. Also, the commission shall provide all other information necessary to comply with the above rule.

49.2.d. Veterinarians shall not have contact with an entered horse on a race day except for the administration of furosemide (lasix®) under the guidelines set forth subsection 50.7. of this rule unless approved by a Racing Commission veterinarian.

The above rule does not allow for the necessary care and treatment of horses by restricting your veterinarian from helping you with a horse in on race day.

Rule Change:

This rule needs to be taken out or provide a commission veterinarian on the grounds of the racetrack for at least 24 hours prior to post time of each race day.

50.11. Androgenic-Anabolic Steroids (AAS). The following provisions apply to androgenic-anabolic steroids (AAS):

50.11.a. No AAS shall be permitted in test sample collected from racing horses except for residues of the major metabolite of stanozolol, nandrolone, and the naturally occurring substances boldenone and testosterone at concentrations less than the indicated thresholds.

50.11.b. Concentrations of these AAS shall not exceed the following urine threshold concentrations for total (*i.e.*, free drug or metabolite and drug or metabolite liberated from its conjugates):

50.11.b.1. 16β-hydroxystanozolol (metabolite of stanozolol (Winstrol)) – 1 ng/ml in urine for all horses regardless of sex;

50.11.b.2. Boldenone (Equipoise® is the undecylenate ester of boldenone) in male horses other than geldings – 15 ng/ml in urine. No boldenone shall be permitted in geldings or female horses;

50.11.b.3. Nandrolone (Durabolin® is the phenylpropionate ester and Deca-Durabolin® is the decanoate ester):

50.11.b.3.A. In geldings - 1 ng/ml in urine

50.11.b.3.B. In fillies and mares – 1 ng/ml in urine

50.11.b.4. Testosterone

50.11.b.4.A. In geldings – 20 ng/ml in urine

50.11.b.4.B. In fillies and mares – 55 ng/ml in urine

Boldenone, Nandrolone, and Testosterone are naturally occurring substances. Stanozolol (Winstrol - V) is a synthetic, man made anabolic steroid. The above rules take away the often necessary and legitimate use of anabolic steroids or nearly completely restricts their use to where they will have little benefit at the restricted, allowable concentrations.

Anabolic steroids are naturally occurring substances that are necessary for tissue repair and in the overall health and wellbeing of horses. Anabolic steroids have been abused in human medicine. Anabolic steroids have not been abused in horseracing. Furthermore, we do not castrate human males and ask them to perform as athletes.

The above rule sets up a competitive disadvantage when a colt or horse with testicles races against a gelding. Colts and horses with testicles have no limit on the amount of testosterone and can never be called positive for testosterone. Colts and horses with testicles can have Boldenone in their system. A gelding cannot have any Boldenone in their system and can only have a minute amount of testosterone in their system. In fact, under these proposed rules, you could administer massive doses of testosterone to a colt or horse with testicles and nothing could be done about it as far as calling a positive.

Unfair Testing for Anabolic Steroids

Another big problem with this rule is it is to be selectively enforced. Due to the cost of testing, the stewards are planning to

select one horse per race card to be tested for anabolic steroids.

There are other problems with this rule concerning the allowable level of Stanozolol (Winstol - V) the synthetic/manmade anabolic steroid. These new rules limit Stanozolol to 1 ng. Many other states do not limit Stanozolol to 1 ng and the range of these limits run from .5 mcg to the picogram level. More research needs to be done, or the level should be adjusted upward and wait for future research.

Other states that have adopted the policy of restricting anabolic steroids are now rethinking these restrictions. The reason they are rethinking these restriction is that therapeutic use of anabolic steroids is necessary for horses under intense training to maintain their ability to heal from injury and maintain their overall health and wellbeing.

Common sense dictates that if a horse is lacking in a naturally occurring anabolic substance such as Boldenone, Testosterone, or Nandrolone, that the administration of these naturally occurring substance (Boldenone, Testosterone, or Nandrolone) should be permitted for the health and wellbeing of the horse.

Proposed rule change:

All naturally occurring steroids including Boldenone, Testosterone, and Nandrolone are permitted. However, the administration of anabolic steroids including Boldenone, Testosterone, and Nandrolone shall limit administration to 7 days prior to a race (currently it is 24 hours).

Stanozolol (synthetic/man made anabolic steroid) shall be permitted but administration of Stanozolol shall be at least 7 days prior to a race (currently it is 24 hours).

50.11.c. Any other anabolic steroids are prohibited in racing horses.

The problem with this rule is that there are at least 33 naturally occurring anabolic steroidal substances in the horse and it is further believed there may be over 100 naturally occurring anabolic steroid substances found naturally in horses. We cannot prohibit something that is occurring naturally.

Proposed change:

The entire rule needs to be removed.

51.2. Official chemists. The following provisions apply to official chemists:

Currently, the official chemists rotates test so all horses under our current system are not treated equal when it comes to testing. Horses and trainers are held to different standards because of these test rotations. We need a consistent and level playing field.

Proposed rule:

With the exception of Graded Stake Races, the official chemists shall be directed to run the same battery of tests and level of both qualitative and quantitative analysis on all tests. Any deviation of these testing procedures can be done for research purposes only.

53.2.d. The owner of the deceased thoroughbred shall make payment of charges due the practicing veterinarian employed by him to conduct the examination. The services of the Racing Commission veterinarian and the laboratory testing shall be made available by the Racing Commission without charge to the owner.

The owner should not have to pay for a veterinary service they did not authorize.

Proposed rule change:

Whoever orders a necropsy, in this case the track management or racing commission, they (not the owner) shall pay for this service.

8.5.g.2. assess a fine not to exceed five thousand dollars ($5,000.00) per violation;

Currently, the stewards are limited to a maximum of a $1,000 fine per violation. Under this new rule, the stewards can levy up to a $5,000 fine per violation. This is way too excessive. This would put many people completely out of business and could lead to abuse of power.

Proposed rule change:

The maximum fine that the stewards may levy per violations shall be up to $1,500.

27.4.g. Each trainer is responsible for presenting his or her horse and being present in the paddock at least twenty (20) minutes before post time or at a time otherwise appointed before the race in which the horse is entered.

The above rule needs to be taken out completely.

There is no need for a trainer to be in the paddock prior to the arrival of their horse or the valets. The Charles Town valets usually come out to saddle the horses at about 12 minutes prior to post. Most horses arrive 14 or 15 minutes prior to post. Having horses arrive 20 or more minutes prior to post in the small paddock at Charles Town would serve no purpose. Having horses arrive earlier (20 or more minutes prior to post) in the small confined paddock at Charles Town would increase the risk of injury to both the horses and the personnel attending them.

27.4.h. Each trainer is responsible for personally attending to his or her horses in the paddock and supervising the saddling thereof, unless excused by the stewards.

The above rule needs to be taken out or modified.

A lot of trainers have an assistant or designee supervise the saddling of their horses. Some trainers have physical limitations that require an assistant, others may not attend because they need to be some place else. However, they usually have an assistant or someone else supervise the saddling of their horse. To have to reach the stewards for permission to have an assistant or designee employed by a trainer to supervise saddling of a horse is a waste of everyone's time.

Alternatively, when a trainer, their assistant, or their designee is not there to supervise the saddling of a horse, then the trainer should contact the stewards to have them assign someone to saddle the horse.

27.4.q. No trainer shall move or permit to be moved any horse or horses under his or her custody, care or control into or out of the association's grounds without permission from the the association's racing secretary or his designee.

The above rule 27.4q prevents a horse trainer or owner from bringing their horse onto or off of the grounds without permission the racing secretary.

Why is this a problem?

- The racing secretary is often not available for days at a time and even when he is available, it can take several days to get permission to move a horse on to or off the grounds.

- A horse may be injured or sick and need to be moved to an equine hospital, and to move the horse without permission from the racing secretary under this new rule would be a violation of law of the State of West Virginia. The State of West Virginia should not be able to restrict the movement of an injured or sick horse.

- If a person would want to remove their horse from the grounds and take it to their farm, why do you need permission under this new rule from the State of West Virginia to take your horse, which is your property, to your farm?

Proposed change:

To move any horse into or off the grounds of the race track, for the purpose of using a stall for stabling, for the purpose using a stall for race day (ship ins) stabling, and for the purpose of shipping in and using a stall in the short term for training and shipping out the same day; the horse trainer or their designee shall sign the horse in at the stable gate and present a current, valid coggins test. A trainer or their designee also shall sign out any horse at the stable gate when leaving the grounds.

The above proposed rule shall satisfy the requirement(s) for bringing a horse onto and off of the grounds of the race track.

Items we need added to the legislation:

Proposed rule:

Stake races funded from the horsemen's account (horsemen's money)

Approval is needed from the local horsemen's association (HBPA) for all stake races paid from funds generated for the horsemen's purse account.

West Virginia stake bred races and the West Virginia breeder's cup races, since these funds are derived from other sources, this above rule shall not apply.

Proposed Rule:

Racing Secretary calling off races

When the entry time for races is extended beyond its normal time of closing, no overnight race shall be called off until the time of draw of all races for that card.

The purpose for this rule is to give all races equal chance for filling.

Dr. Casey's letter to the Racing Commission July 6, 2010

Document # 4:

WVRC 07JUL '10 AM10:53

Proposed penalties.

For the record, I have held a trainer's license for the past 31 years in West Virginia. Horses I trained have won a number of the West Virginia Breeder Classic Races, along with a host of other races. At no time during the 31-year period have I ever had a positive test with regards to racing horses in West Virginia.

We want good rules and we want consequences for those who do not follow them. The proposed rules and penalizes as currently written:

- do nothing more to catch the real cheaters
- will make it nearly impossible to properly take care of horses regarding therapeutic medications (a therapeutic medication is one that heals and maintains health)
- net result in driving horse racing out of the State of West Virginia

I have provided a more realistic and fair penalty schedule in document # 4

Penalty Guidelines

Provided that the possibility of environmental contamination, inadvertent exposure, or administration is ruled out the following shall apply:

Suggested Rule Penalty Changes:

Class 1 Penalties:

First offense - absent mitigating circumstances and in the presence of aggravating factors could impose a penalty up to 90 days suspension, fine of $1,000, and loss of purse.

Second offense - absent mitigating circumstances and in the presence of aggravating factors could impose a penalty up to 180 days suspension, fine of $2,000, and loss of purse.

Third offense - absent mitigating circumstances and in the presence of aggravating factors could impose a penalty up to 1 year suspension, fine of $3,000, and loss of purse.

After Three Class 1 drug violations the Fourth Class 1 drug violation may be met with revocation of occupational permit

Suggested Rule Penalty Changes:

Class 2 Penalties:

First Offense - absent mitigating circumstances and in the presence of aggravating factors could impose a penalty up to 30 days suspension, fine of $500, and loss of purse for non therapeutic medication.

Second offense - absent mitigating circumstances and in the presence of aggravating factors could impose a penalty up to 60 days suspension, fine of $1,000, and loss of purse.

Third offense - absent mitigating circumstances and in the presence of aggravating factors could impose a penalty up to 90 days suspension, fine of $1,500, and loss of purse.

Dr. Casey's letter to the Racing Commission July 6, 2010

Document # 5:

MARC 07 JUL '10 AM 10:53

Jockey Weights.

I do not believe there should be any raise in the minimum weight in jockey weights because:

- raising the jockey weights does not solve the jockey weight problem because if someone isn't small enough to start with, then a rule will not make them smaller
- raising the jockey weights will make the problem worse because more people will try to get down to the higher jockey weights
- currently we have an ample number of jockeys who can make the weight
- raising the weights will put more stress on our horse they do not need.
- at a certain point because of limited tensile tissue strength of horse's legs, the weight exponentially increases the chance of catastrophic breakdowns, injuring both horse and rider.

Document # 5 clearly lays out raising the minimal weights would cause horses to carry weight, at times, over 130 lbs, which is totally unacceptable. Please find a proposed rule in document # 5 or alternatively, please see my letter to the racing commission dated May 10, 2010.

Jockey Weights

43.3. Scale of Weights. The following provisions apply to the scale of weights:

Under our current rules, the minimum weight is 110 lbs subject to sex and apprentice allowances. Our current minimum weight rule does not apply where 3 year old horses race against older horses nor does it apply to handicaps.

At the commission meeting of May 20, 2010, their attorney recommended raising the minimum weight **from 110 lbs to 118 lbs** and **no safety equipment is included.** Additionally, races for **3 year olds and upwards are Not excluded from the minimum weight as in our current rule.** This will have a net result in raising all weights carried by horses. At certain times of the year, when 3 year olds race against older horses, **older horses would have to carry 130 lbs or more.** For example, in the race below:

SECOND DAY -- FRIDAY, APRIL 2, 2010
(Entries Close on Sunday, March 28, 2010)

2 **SECOND RACE** **WEST VIRGINIA-BRED CLAIMING**

PURSE $18,000. FOR ACCREDITED WEST VIRGINIA-BRED FILLIES AND MARES THREE YEARS OLD AND UPWARD WHICH HAVE NEVER WON THREE RACES.

Three Year Olds..... 116 lbs. Older..... 123 lbs.
Non-winners of a race since March 2..... 2 lbs.
A race since February 2..... 4 lbs.
CLAIMING PRICE $12,500, if for $10,000, allowed..... 2 lbs.
(Races Where Entered For $8,000 Or Less Not Considered In Estimating Weight Allowances)
(Winners Preferred)

SEVEN FURLONGS

In this race, the lowest weight for 3 year olds under what is being proposed by the attorney for the racing commission would be 118 lbs. Under these conditions of the above race, horses are allowed up to 6 lbs off, and 3 year olds would have to start out at 124 lbs. The spread of

weights between 3 year olds and older horses is 7 lbs. Therefore, to maintain the 7 lb spread in weights, **older horses would have a starting assigned weight of 131 lbs.**

Proposed rule:

In races restricted for two year olds, three year olds, and for four year olds and upward, the minimum weight shall be 110 lbs

The minimum weight shall not apply to races written for 3 year old and upwards or handicap races.

The maximum jockey overweight shall be 5 lbs

In times of inclement weather, jockeys shall be allowed up to 2 additional lbs. (for additional clothing). Inclement weather shall be defined as when the temperature in Fahrenheit drops below 30° F.

Please see the letter to the Racing Commission dated May 10, 2010 for further information.

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MJRC 07JUL'10 AM10:53

May 10, 2010
Certified Mail

Chairman Joe Smith
West Virginia Racing Commission
106 Dee Drive
Charleston, WV 25311

Re: Jockey Weights

Mr. Chairman and Members of the Racing Commission:

I do not believe there should be any raise in the minimum weight that is carried by horses in West Virginia. In a letter sent to the Racing Commission by Rembrandt Wright, President of the Mountaineer HBPA, dated April 10, 2010 (copy attached) he objects to raising the minimum weight and the points he makes are well founded.

Under Current Practice Top Weights Have Already Been Raised

In the not so distant past, the top weight to be carried in most overnight races was usually 120 lbs. Now in West Virginia often overnight races start at 123 lbs. or 124 lbs. So in current practice the weights carried have been raised several pounds from what was not long ago.

Also, the break (difference) in weight in races where 3 year old horses run against older horses (4 year olds an upward) has been reduced in recent years. The end result of this is that 3 year old horses carry more weight when racing against older horses. So again, weights have already been raised.

Raising the minimum weight will cause the top weight to be raised even higher than what they are now. This will create stress on our horses they do not need.

I was asked to serve on the Rules Committee by the West Virginia Horse Breeders' President, Dr. Doug Allara. I breed and train horses that race in West Virginia and

own part of a thoroughbred farm with my father in West Virginia. I have a Veterinary practice based in Maryland. Currently, I am licensed as a veterinarian in 8 states (MD, VA, PA, DE, NJ, GA, FL, and KY). My veterinary practice is limited to my specialty interest of racing and performance horses.

As a veterinarian, I believe that thoroughbred racehorses are stressed enough and adding any more weight what so ever is a very bad idea. I do not practice veterinary medicine in West Virginia. However, the practicing veterinarians I have spoken with in West Virginia do not think adding more weight to horses is a good idea.

Fragile Legs of Horses

The middle fingers of humans and the front legs of horses have the corresponding comparative anatomy. The back legs of horses are the equivalent of the middle toes of humans. The fingernails and toenails of humans correspond to the hooves of horses.

The lower parts of horses legs that must support weight such as the cannon bone is smaller than the tibia in the lower leg of a human. Thoroughbred horses are hybrids. Through selective breeding the powerful body or engine of the horse is suspended on a lightly built undercarriage of legs. Increasing weight to be carried on horses' fragile legs is a recipe for disaster.

Stress Fractures and Catastrophic Break Downs: Weight Makes a Difference

In addition to my veterinary practice, I teach Joint Disease and Lameness of Horses at a school of veterinary medicine (Visiting Scholar/Guest Instructor). In part of these teachings, I cover the subject of Stress Fractures and Catastrophic Break Downs of Horses. Weight of course is a factor in catastrophic injuries. I would be happy to present to the racing commission a short presentation on stress fractures and catastrophic injuries etc if this would be helpful.

I Was Once a Jockey

I understand what some jockeys go through to make weight having been a jockey myself. All the bad practices of heaving, hot boxes, and so on, I have done. Included with this letter is a picture of my jockey days while still a high school

student. In this picture, I probably weighed about 106 lbs stripped and officially tacked 110 lbs. Often in those days, my reducing to make weight made me very weak. I was a danger to myself and to others. From the dangerous practice of over reducing, I am lucky to be alive today. A few pounds increase would not have helped. Increasing a few pounds would have just extended the dangerous practice of reducing and being too weak to ride, further endangering others and myself. If someone does not have the size limitation or physical build of a smaller stature needed to be a jockey, then increasing the weight is not going to help.

Raising the Minimum Weight Will Make the Problem Worse

Raising the minimum scale of weights will not cure the jockey weight problem. It will make it worse. Raising the minimum weight will result in more people trying to make weight and ride as a jockey.

If you do not have the right make up to be a jockey to begin with, then it is best to go on and do something else.

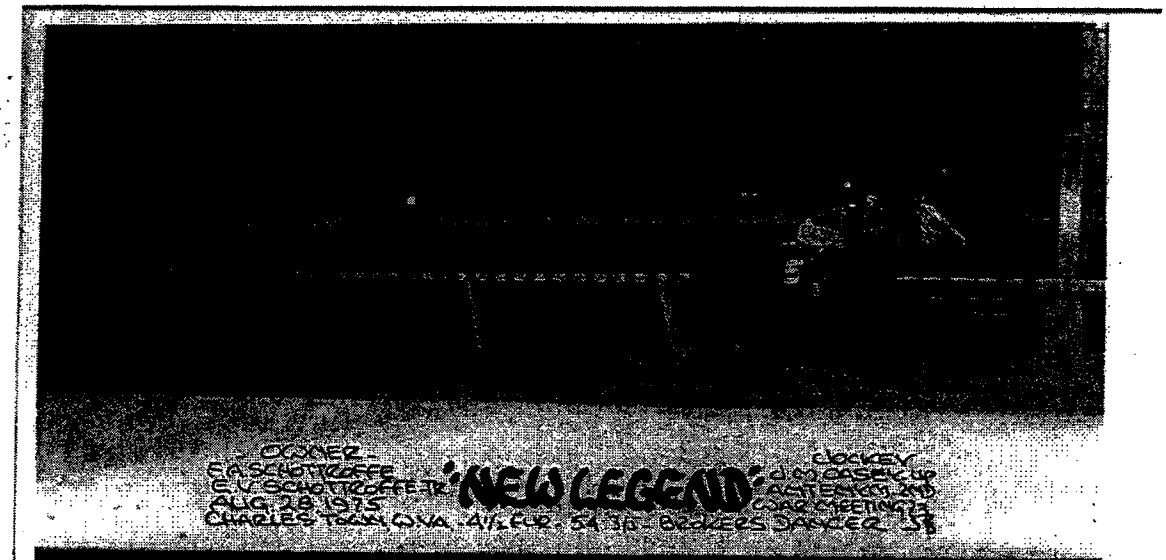
- Right now we have an ample supply of jockeys that can make weight
- If an owner or trainer wants to ride a heavier jockey, they can do so by not claiming the weight allowance in most overnight races
- Adding more weight for horses to carry thus more stress has grave consequences.

The current minimum weight is 110 lbs. It should stay the same. If jockeys would be required to weigh with, the safety equipment (helmet, vest, and over girth) then the minimum weight could be raised to 113 lbs. Since jockeys currently are not required to check weight with this safety equipment there would be no effective change in the weight carried.

I appreciate your attention to this matter.

Best regards,

James M. Casey, D.V.M.
Member, West Virginia Thoroughbred Rules Committee



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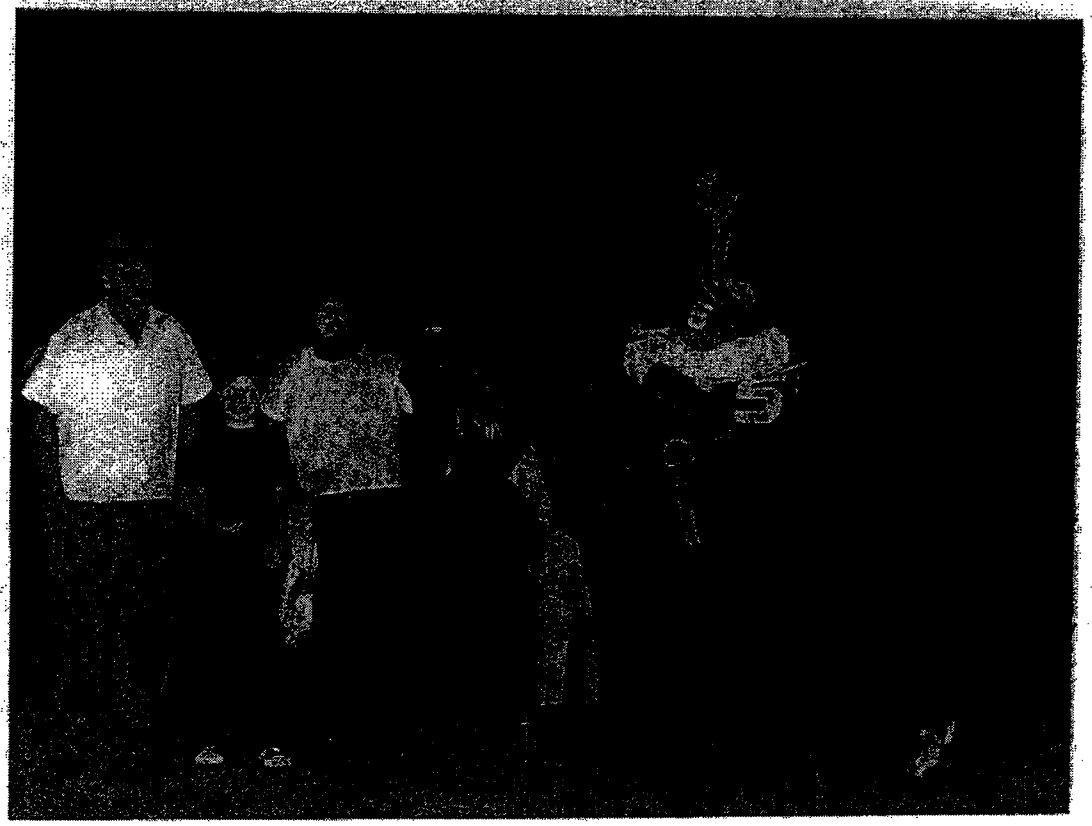

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Douglas E. Shanyfelt

RECEIVED
APR 14 2010
ATTORNEY GENERAL'S OFFICE

April 10, 2010

Chairman Joe Smith
West Virginia Racing Commission
106 Dee Drive
Charleston, WV 25311

RE: jockeys minimum weights and mount fees

Dear Mr. Smith and Rules Committee:

The Board of Directors of the Mountaineer Park HBPA is opposed to current proposed changes for jockey weights. The scale of weights is established at the top end. Establishing a minimum weight takes away the incentive for trainers to compete and bettors to wager. We are not looking out for the horse's best interest by expecting the animal to carry more weight. This year's 2010 top end weight has been raised, and for the first month of racing there are still weight overages. This is further punishing the trainer, gambler, and horse.

This rule forces trainers to make horses carry more weight against tougher competition. One could argue that this makes a level playing field by having all horses carry the minimum. However, there are variables going into the race such as:

1.) Young horses running against older horses,
2.) Fillies running against colts and geldings,
3.) Horses that haven't won recently running against recent winners.

Bettors and handicappers look for value in different ways to make a horse more "bettable", thus increasing the amounts bettors are willing to wager. Bottom weights may eliminate a possible wager on a horse because bettors look at lighter weight as a betting advantage or incentive.

A three year old that is still growing and developing is often asked to run against older, more mature horses, and will not have the advantage of carrying lighter weight to do so. For all horses, we are guaranteeing them to carry more weight, putting more stress on their entire body during competition. Weight allowances allow lesser horses to compete with an incentive when running against more seasoned and accomplished horses.

P.O. BOX 486, NEWELL, WV 26050 – TELEPHONE (304) 387-9772 – FAX (304) 387-1925

There is a lack of incentive for lighter jockeys with this proposal. Lighter jockeys would be forced to add weight. Trainers would rather have horses carry a "live" load (jockey) rather than lead plates. Trainers will be resistant to using lighter riders who have to carry so much additional dead weight.

Establishing a minimum for premier races (stakes and handicaps) will actually punish the heroes and top horses of our sport, which attract larger crowds and promote interest in thoroughbred racing. If a minimum is established in handicaps, the top horses may not come to compete because they will be assigned too much weight, and an owner/trainer may not want to subject the horse to competing with that large an amount of weight. These owners and trainers are charged with protecting the safety and welfare of the animal.

We need our top horses to perform to continue to generate interest in our sport just as top professional athletes do in every professional sport.

As for the increased mount fees, we recognize the jockeys haven't had a raise in quite some time, and that their profession is, by choice, a dangerous one. Anyone who handles thoroughbreds understands that it is a dangerous profession whether they groom, ride or train. Just as jockeys put their lives on the line every time they ride, so too does anyone who works with these animals. And the exposure extends beyond the 20 minutes of post parade and race time that the jockey is actually performing their mount task at racetime.

Several reasons exist for why the owners and trainers at Mountaineer are opposed to the current proposal for increased mount fees.

The purse structure at Mountaineer has taken several cuts in the last few years, while the cost of feed, hay, straw, blacksmith, vet, workers compensation, employees, transportation, and fuel have all gone up. In addition we had to agree to a "start fee" of $15-$25 per start to help the racetrack reduce operating costs. Riders are not required to contribute to these growing expenses. We know that the riders' living expenses are rising, as well as their expenses for their equipment, but so too are the expenses of owners and trainers.

We understand Charles Town is more liberal in their position on this as evidenced by the fact that they went outside the scope of the West Virginia Rules of Racing and entered into a separate mount fee agreement with the jockey colony at Charles Town, which exceeds that of the West Virginia Rules of Racing. The horsemen at Mountaineer believe they are being "punished" with, at the very least, accepting the Charles Town fee schedule, even though we followed procedure by contacting the Racing Commission about the issue when approached by Jockey Guild representatives.

The purses at Charles Town are much more lucrative than at Mountaineer. According to numbers posted on the West Virginia Lottery website Charles Town's income from slot revenue has exceeded Mountaineer since FY 2005. Charles Town is looking forward to a new revenue stream with the advent of table games. Mountaineer horsemen are concerned that we won't be able to maintain the current purse structure because of increased competition and current economics, with no new revenue stream to ease the losses of competition and economics.

While a 50% increase in fees (from $50 to $75) may be suitable for Charles Town, it is not for Mountaineer. Mountaineer's bottom race purse for a maiden claiming $5000 is $8,200, Charles Town's bottom for the same race is $11,000. That is a 25% difference in purse. A win purse in that race generates $4,756 at Mountaineer but $6,380 at Charles Town. That's a difference of $1,624 more for the same type horse running a race.

Under current Charles Town's current mount fee schedule, consider losing mount for eighth place:

	Mountaineer 6th-10th Place	Charles Town 6th Place	Charles Town 7th-10th
Earnings for race	82.00	110.00	100.00
Less Start fee	15.00	0.00	0.00
Less Mount fee	75.00	75.00	75.00
Net earnings	(8.00)	35.00	25.00

50% of Mountaineer owners lose money for running his/her horse.

Riders are not sympathetic about cost containment or the overall expenses of training horses to remain working in the industry, when all indicators are on a downward spiral. If the trainers cannot continue to attract owners to participate and invest in the thoroughbred industry, everyone loses.

As the deadline approaches for submission of proposed rules changes for the 2011 Legislative Session, the Mountaineer Park HBPA opposes all current proposals for both the jockey weights and the mount fee issues.

Thank you for your time and consideration.

Rembrandt Wright
President

cc: Kelli Talbott, Esq., Chairman-WV Racing Commission Thoroughbred Rules of Racing Committee

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JOCKEYS' GUILD, INC.
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FAX cover sheet

TO:
Commissioner Joe Smith
Commissioner Jack Rossi
Commissioner Greg McDermott

FROM:
Jeff Johnston

COMPANY:	DATE:
West Virginia Racing Commission	JULY 8, 2010
FAX NUMBER:	**TOTAL NO. OF PAGES INCLUDING COVER:**
(304) 558-6319	3
PHONE NUMBER:	**RE:**
	Scale of Weights

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July 6, 2010

West Virginia Racing Commission
106 Dee Drive, Suite 2
Charleston, WV 25311

Attn: Commissioner Joe Smith
Commissioner Jack Rossi
Commissioner Greg McDermott

Dear Commissioners,

Please accept this letter, on behalf of the Jockeys' Guild, as our support for the West Virginia Racing Commission's proposed rule change regarding the Scale of Weights used at Thoroughbred race tracks in West Virginia. The current schedule had been outdated for many years and is no longer used by racing secretaries in West Virginia or any other racing jurisdiction. It has been long known by the industry and the public as a whole, that jockeys are larger than jockeys of the past.

The current rule in West Virginia uses the language of the previous model rule. However, during the meeting of the Association of Racing Commissioners International (ARCI) in December of 2009, that rule was amended and was replaced with a new model rule which uses the same language you have submitted for adoption as the new rule in West Virginia. The Jockeys' Guild is in support of the model rules adopted by ARCI, and proposed by your Commission, as it eliminates the scale of weights, more clearly define the weighing in process, and mandates a public announcement explaining the difference in weights listed in the program and weights actually carried by the horses.

The intent of these changes is to establish the new minimum weight of 118 lbs and clarify the equipment that is included within that weight as well as the procedures for weighing out and weighing in. The adoption of these rules will allow racing secretaries to amend their scales and offer the same incentives and allowances available to horsemen today while ensuring that jockeys will not be assigned weights that have been determined to be detrimental to their health. Furthermore, the language you have proposed the appears in the 2010 Code of Standards created by NTRA Safety and Integrity Alliance for their accreditation application as a standard for tracks to adopt.

Representatives of the National Thoroughbred Racing Associations (NTRA), Racing Commission International (ARCI), Thoroughbred Owners and Breeders (TOBA), the National HBPA, American Association of Equine Practitioners (AAEP), The Jockey Club, among others, have also supported and openly endorsed the increased scale of weights. At the December 2009

ARCI Model Rules meeting, the National HBPA not only didn't oppose the rule change, but again openly endorsed it. Regulators at the meeting said the change was well overdue and congratulated the committee members for their efforts.

Horsemen argue increased jockey weights will put the horse more at risk for breakdowns, but offer no statistical studies to back their views. Instead, initial data from the Horse Injury Database, that was established to track racing related horse injuries in North America, indicates there is no correlation between the weight carried by the horse and breakdowns. This information was recently provided at the June 28th, 2010 Grayson-Jockey Club Welfare and Safety of the Racehorse Summit, where Dr. Tim Parkin, who presented the data, said **"There is very little evidence that weight carried influences breakdowns."**

Since there is no data to demonstrate the impact on the horse, it is essential to consider the health of the jockeys. There are several studies on jockeys, as well as other athletes, that show correlation between weight loss and dehydration and health issues such as osteoporosis, bone density and mental and physical performance.

The topic of jockey weights is in fact again on the agenda for the October 2010 International Conference for the Health, Safety and Welfare of Jockeys (I.C.H.S.W.J) to be held at Meydan Racecourse in Dubai. Agenda items include fitness to ride, bone density, concussion, dehydration/fatigue, and minimum weights. While most U.S. health and weight studies have focused on other sports such as gymnastics, wrestling, and boxing, other countries have conducted studies specific to jockeys that prove weight loss techniques and dehydration contribute to injuries and lifetime illnesses. Information provided at this conference is expected to lead to a push for further increases in the scale of weights in other countries, many of which are already well above the weights suggested by the West Virginia Racing Commission's recommendation of a minimum weight of 118 pounds including equipment.

The Guild sincerely appreciates the West Virginia Racing Commission's attempt to be the first state to adopt the ARCI's Model rule and taking the steps necessary to increase jockey weights and moving toward healthier jockeys, horses, and the sport of horse racing.

Sincerely,

Jeff Johnston
Regional Manager
The Jockeys' Guild

CC: Kelli Talbott
Terry Meyocks, Jockeys' Guild
Mindy L. Coleman, Jockeys' Guild, Counsel
John R. Velazquez, Jockeys' Guild, Chairman

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MOUNTAINEER
CASINO
RACETRACK & RESORT

July 6, 2010

Chairman Joe Smith
West Virginia Racing Commission
106 Dee Drive
Charleston, WV 25311

Dear Chairman Smith:

In regard to the West Virginia Thoroughbreds Breeders Association concern about closing entries at different times our policy is final closing is no earlier than 11:00 AM It is a rarity to close at 11:00 AM most of the time it takes until 11:30 AM or longer to fill the ten race card.

After taking entries for at least two hours, some time two hours and a half races are called off that have insufficient number of entries such as races with zero to three entries. These races are failing to fill and it is obvious to the racing secretary, so at 11:00 AM these races may be called off. Most racetracks have between fifteen to twenty races listed in the condition book to make ten races. It is unfair to horsemen that have filled a race with eight or more horses to wait for races with three or fewer entries to fill doing so would only promote short fields.

I am in total support of increasing fines for medication violations. We need to send the message that it will not be tolerated in West Virginia. We need to protect the wagering public and let our patrons know that we do not tolerate misuse of medication.

Should you have any questions regarding these issues, please fee free to contact me.

Sincerely,

Rose Mary Williams

Rose Mary Williams
Director of Racing

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Racing Medication & Testing Consortium
821 Corporate Drive
Lexington, KY 40503
Phone (859) 224-2844
Fax (859) 296-3033

RMTC
Racing Medication & Testing Consortium

Fax

To: WV RACING COMMISSION **From:** RMTC

Fax: 304-558-6319 **Page(s) including cover:** 3

Phone: **Date:** 7/7/10

Re: PUBLIC COMMENTS **cc:**

___ Urgent ___ For Review ___ Please Comment ___ Please Reply

RMTC
Racing Medication & Testing Consortium

July 7, 2010

Mr. Joe Smith
Chairman
West Virginia Racing Commission
106 Dee Drive
Charleston, WV 25329

Dear Chairman Smith,

In reviewing the proposed new Thoroughbred rules enclosed in 178 CSR 1 we would like to comment on the following two sections:

Section 50.3.c and corresponding Tables 178-1 D and 178-1 E

The penalty section differs significantly from the model rules and the most current version of the Racing Commissioners International Uniform Classification Guidelines for Foreign Substances. In the most current version, each drug is assigned a letter penalty designation in addition to the number classification. This was done because of a significant weakness in the older versions of the classification system. Drugs for years have been slotted into their number class based solely on the pharmacology of the drug without any measure of the "appropriateness" of finding that drug in the post-race sample of a racehorse.

The RMTC attempted to correct this weakness by assessing each drug individually and assigning a letter grade which corresponds to the penalty grids both at the back of the classification document and also in Chapter 11 of the model rules document. The proposed West Virginia rule goes back to using strictly the number classification of the drug and eliminates the letter designation. The problem with this approach is that the penalties for some drugs will be far too harsh while others will be far too lenient. We strongly recommend adhering to the most current version of the Uniform Classification document and the model rules. The RMTC worked for two years to develop the letter designations and grids with significant input from industry stakeholders and we believe the results create a fair and balanced approach to determining penalties.

RACING MEDICATION AND TESTING CONSORTIUM
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PHONE: 859-224-2844 FAX: 859-296-3033 EMAIL: [illegible] Internet: www.rmtcnet.com

Section 51.2.d

We would strongly recommend deleting Section 51.2.d. with no language to replace it. Thin Layer Chromatography is an archaic screening technology that does not have the requisite sensitivity to properly regulate many of the drugs used in horse racing. While we understand the desire to limit the sensitivity of testing for those substances that may have the most therapeutic value there are many drugs within RCI Class 4 in particular that need to be regulated at concentrations that Thin Layer Chromatography simply cannot reach.

The laboratory must be able to detect flunixin for instance, which is a very commonly used NSAID, at concentrations below 50 nanograms per milliliter of serum or plasma in order to regulate 24-hour administration. Thin Layer Chromatography cannot detect below approximately 100 ng/ml of flunixin in a sample. In addition, similar to the language proposed under the penalty section, any blanket regulations utilizing solely the RCI number classification misses a large part of the picture. There are many drugs within RCI Class 4 that have never been studied in the horse and are therefore questionable in terms of their therapeutic effect and many can be used to manipulate performance if desired. The Commission in our view needs the flexibility to screen samples for RCI Class 4 drugs using other methodologies.

We hope that these comments will be useful to the Commission. The work to date to bring the West Virginia rules more in line with the RCI Model Rules has been very well done and we look forward to assisting the Commission in any way we can in the future.

Sincerely,

Scot Waterman, DVM
Executive Director

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July 2, 2010

West Virginia Racing Commission
106 Dee Drive, Suite 2
Charleston, WV 25311

Dear Sirs:

Please accept this as my public comment on the proposed rules changes for West Virginia Thoroughbred Racing. While I applaud your diligence, untiring efforts and well meaning intentions, I am compelled as a board member of the WV Thoroughbred Breeders Association, West Virginia thoroughbred owner/breeder and farm owner to request the following minor changes to those rules.

First, it is important to clean up a little known issue with definition of an "accredited" West Virginia bred or sired horse before it becomes a major problem that could likely result in costly legal action that could also call into question all "WV bred horses" and leave us all in the industry with an undeserved black eye. My suggestion, as well as that of several others within the community, is to simply add that the accredited WV bred be registered with the West Virginia Thoroughbred Breeders Association. This would be a confirmation, if you will, of language already in place with both racetracks in the rules printed in their condition books and what they have printed in their overnights.

Secondly, under Part 10 178-1-59 Accredited Race Fund 59.1.c of the proposed rules the language is not the same as the West Virginia Code 19-23-13b (h) (3). The WV Code reads "The breeder of the West Virginia bred foal is not a West Virginia resident and does not qualify under subdivision (2) of this subsection, but either the sire of the West Virginia bred-foal is a West Virginia stallion, or the mare is covered only by a West Virginia accredited stallion or stallions before December 31 of the calendar year following the birth of that West Virginia bred-foal". I would like to have the language in the proposed rules of racing read the same.

I am sure it was an oversight by the committee to exclude 178-1-71 State Breeders Awards from the proposed rule changes and after pointing this out to you it can be rectified.

With regards to making entries, it has occurred that the racing office regularly close WV bred races at the time of closing (11:00 a.m.) but choose to keep others races open to entries for an extended period of time, much longer than their WV bred counterparts. I strongly urge the commission to take hold of the opportunity to right this wrong and unfair practice that put all of our WV bred horses, owners and trainers at a major disadvantage and level the playing field by requiring all races be required to close at the same time and/or if any race is left open for entries past the regular time of closing that all races remain open until the time of draw.

Unfortunately, I must also take exception with the proposed weight changes and feel these changes will not be beneficial or helpful to racing and will lead to the premature breakdown of our horses and cause yet another blemish in the public eye in our already strained industry.

I would urge the commission to listen to the out cries of the rest of the horse community and the veterinarian community with regards to the proposed medication rules. While changing the current rules is important, by only allowing once voice on your rules committee that was a practicing vet and experienced horseman, you have aligned yourselves with a major non-workable model that could have catastrophic repercussions which could ultimately have tragic implications to our industry, our lives and everyone in our state.

As far as the proposals for fines, I would wish to see that a softer position be taken by the commission as the proposed changes will only discourage current owners from continuing to pursue racing in West Virginia and undoubtedly keep new owners from coming her to be part of our program. Yes, we need to increase the penalties for the violators but not "throw the baby out with the bath water" by creating such an overkill situation causing a negative growth outcome. Punish the habitual offenders and hold accountable those responsible but don't put your blessing on something that will chase the majority of our already decreasing pool of owners to other states with more reasonable regulations.

In closing, thank you for the opportunity to express my view and concerns with regards to these major issues. You, as commissioners, have a chance to help repair some of what is broken with our industry and proactively guide the improvements that will shape our future.

Respectfully submitted,

Martin R. Blaylock

Martin R. Blaylock

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HOLLYWOOD Casino
AT CHARLES TOWN RACES
Post Office Box 551 ÷ Charles Town, WV 25414

July 7, 2010

West Virginia Racing Commission
106 Dee Drive, Suite 2
Charleston, WV 25311

Dear Commissioners,

As you are well aware, the individuals on the Committee entrusted with the task of rewriting West Virginia's thoroughbred racing rules have expended a lot of time, effort and resources over the last several months. It was a collaborative process that resulted in a lot of give and take from all parties involved. Had any entity represented on the Committee been given unilateral power to rewrite the rules, they certainly would've looked different from the draft submitted to you last month. While both myself and the organization I represent, Hollywood Casino at Charles Town Races, wholeheartedly supports the collaborative nature the process took, we would like to explain our stance with regards to a couple issues that have been commented on publicly.

First, we strongly disagree that the fines the new rules propose are too stiff. The sport of horse racing is no longer at a crossroads in terms of the integrity maintained by its participants. We are now roundly viewed as an industry wrought with a degree of corruption that has eroded the public's confidence. There is nothing more harmful to a wagering based industry than this.

The fines proposed in the proposed West Virginia rules are far from being without precedent. In fact, the proposed West Virginia rules call for a $5,000 fine for any owner or trainer with three Class I medication violations in their career. In contrast, the Model Rules, as written by the Association of Racing Commissioners International, calls for a $50,000 fine in that situation.

The inclusion of owners in the schedule of fines is another step in the right direction for our rules. Sometimes the owner does indeed know their trainer(s) are engaging in the wrongful administration of medication. However, owners that don't know what their trainer is doing have a great deal of control over the process. The control comes in the selection of a trainer with a clean record or the discharge of one who doesn't. It's quite simple – be cautious of who you select as your trainer.

HOLLYWOOD Casino
AT CHARLES TOWN RACES
Post Office Box 551 ⁘ Charles Town, WV 25414

It's sad to say, but we need this type of financial deterrent in order to restore integrity in the sport. We've heard that some owners and trainers could be put out of business should they incur a $5,000 fine. In our eyes, someone committing rule violations with a frequency or severity as to incur this fine, should not be in the game. We must take steps to rebuild the integrity in horse racing instead of being concerned of the hardship that will be imposed on someone who habitually violates the rules they are bound to play by.

With regards to closing all races at the same time, this is definitely not something in the best interests of our racing for several reasons. While some have proposed treating all races equally in this respect, the reality is that, statutorily, not all races are treated equally. As per the West Virginia code, we are required to run a West Virginia accredited race that draws seven or more betting interests.

When leaving a West Virginia accredited race with five or six betting interests open past 11am, we run the risk of being forced to card a race we otherwise wouldn't have. Often times, a seventh horse finds its way into the entries, kicking in the statutory requirement that the race be run. Sometimes that seventh horse is a legitimate entry where the horse will eventually compete in the race. Other times, the entry was simply made to bring the entry count up to seven. In those instances, that horse used to fill the race for the others in there winds up scratching and the race is run with five or six horses.

While it's true that these situations occur in races not restricted to West Virginia accredited horses, we don't have a statutory provision binding us in those cases. We are free to use those races at our discretion and are allowed to use our business judgment. Furthermore, we close many open races at 11am. This is not something done solely to West Virginia accredited races. Similarly, should we decide there's a West Virginia accredited race with six entries at 11am that we believe is in the best interests of our product, we will active pursue a seventh entry in order to run the race. That situation happens frequently as well.

All we are seeking to do here is maintain some level of flexibility in deciding what mix of races optimizes our product. Forcing us to close all races at the same time, would take some of that away.

We appreciate your time in reading our comments as well as your role in helping improve rules that needed improvement. The Racing Commission, as well as Ms. Talbott, Mr. Eates and the other members of the Committee should be commended for their

HOLLYWOOD Casino
AT CHARLES TOWN RACES
Post Office Box 551 ★ Charles Town, WV 25414

dedication and work towards accomplishing the goal of improving the quality of horse racing in West Virginia.

Regards,

Erich Zimny
Director of Racing Operations

CC: John Finamore
Al Britton
Dickie Moore
Kelli Talbott
Anthony Eates

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204 Racetrack Street
Ranson, WV 25438
Office: 304-725-1752
Fax: 304-725-3512

Carroll-Butler Veterinary Associates, Inc.

Fax

To: WV Racing Commission From: BB Butler III DVM

Fax: 304-558-6319 Pages: 6

Phone: Date:

Re: Rules of Racing CC:

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

• Comments:

Carroll-Butler Veterinary Associates Inc.

Stan S. Carroll, D.V.M. B.B. Butler III, D.V.M.
William Selby, D.V.M. Gwen Ingersoll, D.V.M.

June 28, 2010

To: West Virginia Racing Commission

Attn: Chairman Joe Smith

Dear Commissioners:

I am the owner of a veterinary practice serving the horses and racing community at Charles Town Races and Slots. I have been at Charles Town for 13 years and am proud to be associated with the sport of horse racing and the racing community. I commend the efforts of the commission in attempting to update the Rules of Racing in West Virginia, but am concerned about certain proposed changes. Please find our Public Comments enclosed.

Sincerely,

B. B. Butler III, DVM

[illegible] Fax 304-725-3512

PUBLIC COMMENTS

PROPOSED NEW RULES OF RACING

Part 8. EQUINE VETERINARY PRACTICES, HEALTH AND MEDICATION

§178-1-48. Equine Health.

48.3. Euthanasia

Opinion: There are unfortunately situations that require that a horse be destroyed that are not necessarily an emergency. For example, a critically ill horse that an owner chooses to euthanize for financial reasons. This can occur at anytime of day or night and frequently the Commission veterinarian is not available. This is not an immediate emergency, but it is unethical and inhumane to allow the horse to suffer until the commission veterinarian arrives.

Solution: No horse shall be euthanized on the grounds of an application until the horse has been observed by a licensed veterinarian. The attending veterinarian shall subsequently notify the Commission veterinarian.

§178-1-49.
49.2.4.

Opinion: Practicing veterinarians are frequently asked to examine a horse on the day it is entered in a race for the reasons of suspected illness and/or injury. Obtaining the approval of the Commission veterinarian before the horse can be examined by the attending veterinarian is a disservice to the animal and jeopardizes if the horse needs veterinary treatment.

Solution: Delete 49.2.4.

49.4.a.

Opinion: The wording is vague and it is next to impossible to know whether or not there is a method to detect and confirm the administration of a substance. It would require the practicing veterinarians to become analytical chemists.

Solution: Delete 49.4.a.

49.4.d.

Opinion: Extracorporeal Shock Wave therapy has been shown to have significant therapeutic value in the practice of veterinary medicine. Eliminating it hinds the tools the veterinarian has to treat certain injuries.

Solution: The use of extracorporeal shock wave therapy or radial pulse wave therapy shall not be prohibited for any horse within ten (10) days prior to racing. The examining veterinarian shall report all horses treated with extracorporeal shock wave therapy or radial pulse wave therapy to the Commission veterinarian.

§178-1-50. Medications and Prohibited Substances.

Opinion: The rule calls for zero tolerance for medications. Zero tolerance is unreasonable and increases the probability of environmental contamination and positive tests for residual levels of therapeutic medications that do not affect a horse's performance. A zero tolerance policy handicaps the West Virginia racing industry as it is stricter than the other racing jurisdictions throughout the country.

Solution: Propose that the Commission adopt the position of established thresholds for substances that are currently being used by other racing jurisdictions. I concur with and advocate for the proposed solution submitted by Mountaineer Park HBPA.

50.7. Furosemide (Lasix®).

Opinion: The rule repeatedly makes reference to "Lasix®". The approved brand name of furosemide for use in veterinary medicine is "Salix®". The specification of a brand name limits to use of the medication to that brand name. At the present, the drug "Salix®" is on manufacturer's back order and is unavailable. This not an unusual occurrence in the veterinary field and results in the use of generic, non-brand named forms of the medication.

Solution: Delete all references to a brand name of furosemide.

50.7.h.1.

Opinion: The proposed 60 days severely penalizes the horse and the owner.

Solution: "……furosemide shall be removed from the Bleeder List.

50.7.h.2. To become re-eligible for the Bleeder List, the horse shall have been observed to have bled by a practicing veterinarian either:

50.7.h.2.A. Externally; or

50.7.h.2.B. By endoscopic examination and reported to the Commission veterinarian.

50.11. Androgenic Anabolic Steroids (AAS)

Opinion: The proposed rule is unfair to geldings and severely limits the therapeutic use of AAS in the treatment of the animals.

Solution: Limit the use of any of the AAS to one within 15 days of racing.

RESPONSE TO THE COMMENTS

THOROUGHBRED RACING 178 CSR 1

The Commission received fifteen comments upon the Thoroughbred Racing Rule, 178 CSR 1, that was out for comment during the period June 8, 2010 to July 8, 2010. As a result of these comments, the Commission made several amendments to the proposed rule. The amendments and the reasons for those amendments are fully described in a document entitled "Amendments Made to Rule as a Result of Comments" included with the filing of this agency approved rule. Such document constitutes, in part, the Commission's response to a number of the comments received. Such document summarizes certain comments, discusses the issues involved, explains the changes made to the rule as a result of the comments and explains the reasons for such changes.

Other comments that were received that are not addressed in "Amendments Made to Rule as a Result of Comments" were carefully considered by the Commission, but did not cause the Commission to make changes to the proposed rule. A number of the comments centered around the medication section of the rule. Comments were received regarding that portion of the rule that states that practicing veterinarians cannot have contact with an entered horse on race day except for the administration of lasix, or if approved by a Racing Commission veterinarian.

There is a very strong public policy/integrity reason for adopting this rule, which is verbatim RCI Model Rule language. Experts have advised the Commission that about ninety percent of substances administered with the intent of manipulating racing performance are administered on race day. The wagering public's confidence in racing is paramount to the continued viability and profitability of racing. Some racing jurisdictions have addressed this problem with mandatory detention barns that limit access to horses on or leading up to race day. This is a costly avenue that West Virginia cannot afford.

If there is a health emergency for an entered horse on race day and the treating veterinarian cannot reach a Racing Commission veterinarian for approval to have contact with the horse, then he or she can treat the horse, notify the State veterinarian afterward, and the horse can be scratched from the race. However, with the hiring of a second State veterinarian at each racetrack (which is necessitated by the proposed rule), it will be less likely that practicing veterinarians cannot reach a Racing Commission veterinarian to handle emergency treatment situations with entered horses on race day. Moreover, if there is a compelling reason for a veterinarian to have contact with an entered horse on race day, then the Racing Commission veterinarian can allow it under this rule.

There were also comments regarding the proposed rule that makes it a violation to possess or use a drug, substance or medication on the racetrack for which there has not been developed a recognized analytical detection method. This is also, verbatim, an RCI Model Rule. Apparently, this rule is being viewed as a "trap" and that is not the intent. It is simply to give the Commission the power to pursue a case when a substance is found that shows a clear intent to manipulate performance using a substance that the laboratory cannot test for. For example, under current West Virginia rules, anyone found in possession of cobra venom (a substance that is increasingly used by unscrupulous individuals to manipulate performance) would not be breaking any rules. With this

language, a case could be pursued. There are very few substances for which there are no analytical testing methods. As new substances emerge for which the labs have not yet developed a method to test, this rule will give the Commission some teeth to deal with these cases.

The Commission received comments to the effect that it should revise its proposed rule on steroids to take out the thresholds and replace it with a rule that provides that no steroids can be administered to a horse within fourteen days of racing.

The proposed steroid rule is an RCI Model Rule and is critically important to the Racing Commission to preserve the integrity of racing. It is extraordinarily difficult for a racing regulator to police when veterinarians actually administer a steroid or any other drug or substance to a horse. Therefore, the vast majority of racing jurisdictions and the RCI have adopted bright line thresholds for medications which can be definitively determined by testing. Experts have advised the Commission that the fourteen day period proposed by the commenting party is flawed. The RMTC recommends at least a thirty day withdrawal for certain steroids and a forty-five day withdrawal for others. A fourteen day withdrawal, given the extended duration of the action of these drugs, could allow a horse to compete while still under the pharmacologic effects of the drugs.

Merely establishing administration guidelines for any substance, including steroids, as opposed to establishing bright line thresholds, would be a regulatory nightmare for the Commission and would not allow the Commission to preserve the integrity of racing. Some jurisdictions, such as New Jersey, have published administration guidelines for medications. But, these are not part of the commissions' rules. They are merely guidelines published for the aid of the industry. Most racing jurisdictions' rules and the RCI Model Rule contain definitive thresholds for medications. Establishing thresholds for steroids puts West Virginia in step with the industry standard.

Comments were also received that the Commission should only be permitted to discipline a horse trainer and/or owner if it can be proven that the level of a drug or substance in a horse actually affected the outcome of a race. This premise was tested in a case that was heard and decided this year by the West Virginia Supreme Court, *Johnson v. Board of Stewards*, 693 S.E.2d 93 (W. Va. 2010). In that case, a horse that tested positive for caffeine was disqualified from a race. The owners argued that their horse should not have been disqualified because it could not be shown that the caffeine affected the horse's speed in the race. The West Virginia Supreme Court squarely rejected that premise.

The Court noted that there presently exists no reliable scientific manner by which to determine whether a specific substance has an "effect"on a certain horse during a certain race. Therefore, since the owner's suggested rule would appear impossible to enforce, the Court rejected it. Even ignoring this substantial hurdle for a moment, the Court stated that if such a rule was adopted, it would necessarily result in almost endless conflicts before the winner of a race could be declared; first between chemical and medical experts at the hearings conducted by the stewards and the Racing Commission, and then between legal experts appearing before the courts. Endless debates as to whether the speed of a particular horse was "affected" by a given concentration of a

certain drug during a given race under prescribed conditions would not enhance the interests of the West Virginia horse racing industry, nor its patrons. The essence of horse racing is the immediate finality of declaring the winner. Therefore, adopting a rule such as that posed by the commenting parties would be extremely unwise.

One of the comments received by the Commission advocated the adoption of a rule regulating toe grabs. A toe grab is a type of horse shoe that is believed to increase traction when a horse starts out of the gate and when its hooves impact the racing surface. Toe grabs are only worn on the front hooves. West Virginia's current rule and its proposed rule doesn't address toe grabs.

This issue has been hotly debated in racing circles as a result of a study that was conducted in California two or three years ago wherein it was concluded that toe grabs of a certain size likely contributed to leg injuries in horses. As a result of this study, the RCI Model Rule was changed to state that horses cannot compete if they have toe grabs in excess of two millimeters. However, new information has recently been issued to the effect that two millimeter toe grabs may not give sufficient traction to a horse, causing the horse to stumble, fall, etc. The Jockey Club Safety Committee has just announced in the last few weeks that it is going to recommend that the Model Rule be changed to four millimeters. Several states have already changed their rules to four millimeters. The commenting party advocated that West Virginia adopt a four millimeter rule.

The Commission felt that the debate on this issue is too much in flux at the present time to establish a rule. The Commission is open to consideration of adopting a rule when solid information is produced that will allow it to formulate a credible rule on this topic.

One or more comments to the Commission suggested that it change certain definitions in its rule. Specifically, commenting parties suggested changes in the definition of "accredited thoroughbred horse." However, this term is defined in West Virginia Code §§ 19-23-1 *et seq.*, as are several of the terms set forth in the rule. Those terms that are specifically defined in the West Virginia Code cannot be changed or amended in the Thoroughbred Racing Rule. Amendments to statute by the Legislature are necessary to address these definitions.

Several comments were received by the Commission on its "jockey weight" rule. The Commission's proposed rule adopts the RCI Model Rule on this issue which provides that no weight may be assigned to a horse/jockey that is less than the minimum of 118 pounds. Some commenting parties expressed concern that 118 was too high and that it would lead to "breakdowns" in thoroughbreds. However, there is no scientific evidence that establishing a minimum 118 pound rule will lead to more "breakdowns." In fact, on June 28, 2010, the Jockey Club (the breed registry for all North American thoroughbreds) published the results of the analysis of data gathered from the Equine Injury Database that demonstrates that "the incidence of fatality for the one-year period was not significantly different for horses racing at different distances or carrying different weights." *See* http://www.jockeyclub.com/mediaCenter.asp?story=434. Currently, both Mountaineer Racetrack and Charles Town Races participate in the Equine Injury Database.

At the national level when the RCI Model Rule was adopted establishing the 118 minimum, various racing stakeholders, including the National HBPA, the Jockeys' Guild, track representatives, state racing commission representatives, veterinarians affiliated with the American Association of Equine Practitioners (AAEP), and others, were involved. The National HBPA was completely on board with the adoption of this Model Rule. The goal of the rule is to balance the welfare of the horse with the welfare of the jockey. The Commission believes that the Model Rule, which it has adopted in its proposed rule, strikes this balance.

Comments were received by the Commission both for and against raising its maximum fine for rule violations from $1,000.00 to $5,000.00. The Commission decided to maintain the maximum fine at $5,000.00 in its proposed rule. Some commenting parties suggested that imposing this fine would put horse trainers and/or owners "out of business." Of course, $5,000.00 is the maximum fine allowed by the rule and will be fairly and justly reserved for the most egregious violations of the rules of racing. Those who operate honestly and within the scope of the rules of racing have nothing to fear. But, those who commit egregious violations of the rules may be fined $5,000.00 if the facts and circumstances warrant. A fine is not meant to be "affordable." Moreover, those who commit egregious violations of the rules and are deserving of a $5,000.00 fine may not be suited for the business of racing.

The Commission's current fine of $1,000.00 is a slap on the wrist to many owners, trainers and other permit holders who can simply write a check and go back to racing. Raising the maximum fine to $5,000.00 allows the Commission to have teeth in its enforcement power and still leaves West Virginia relatively low in the amount that it can fine. For example, the RCI Model Rule recommends a maximum fine of $25,000.00 for certain medication violations. The Commission believes that it is necessary to increase its maximum fine level to $5,000.00 to preserve the integrity of racing.

The Commission received comments that the Commission's proposed rule strikes and takes out of the rule all provisions dealing with the "State Breeder Awards" also known as "10-10-10" awards. The commenting parties state that they do not want these provisions omitted from the rule.

These provisions were purposefully omitted from the proposed rule because the entire 10-10-10 statute (the statute upon which this portion of the rule is predicated) was radically rewritten by the Legislature during the 2009 session. The 10-10-10 rule needs to be rewritten, if indeed a rule is needed. The major provision of the old rule that the Commission used was a requirement that claims for 10-10-10 awards had to be submitted ninety days after the running of the race. The new code language now supersedes and changes that requirement to fifteen days.

The "old" language that is in the Commission's current Thoroughbred Racing Rule was taken out of the proposed rule because it is now obsolete based upon the 2009 legislation. If the Commission determines that a new 10-10-10 rule is needed, it will be promulgated in a completely separate rule, with a new series number.

Some comments suggested that the Commission should not allow fines to be assessed against owners for medication violations. Commenting parties state that it discourages horse ownership. The Commission's current rule allows the stewards to punish owners for medication violations, as does the proposed rule. The only difference between the current rule and the proposed rule is that the proposed rule actually includes a penalty **guideline** chart that lays out what penalties may be imposed by the stewards against owners for medication violations. Although the trainer is the absolute insurer of the thoroughbred's condition and is the primary target of punishment for medication violations, there are some circumstances wherein it is appropriate for the stewards to consider punishment of the owner and/or the treating veterinarian for medication violations. The absolute insurer rule does not absolve an owner of all liability for rule violations. An owner and/or veterinarian may not be punished in every case that there is a medication violation. But, the stewards and the Commission need this regulatory tool.

It should be noted that the penalty to an owner only occurs with repeated offenses under the care of the same trainer. The owner has the ultimate financial responsibility and is therefore the permit holder with the greatest power to deter unethical behavior. If an owner continues to employ a trainer that continuously breaks the rules, he or she needs to participate in the penalty phase. As far as discouraging ownership, the industry loses more owners because they do not feel the sport is conducted with integrity. For that matter, if an owner willfully or just through ignorance continues to employ a trainer that repeatedly damages the perception of the integrity of the sport do we want them to continue in the industry?

One comment was received suggesting that the Commission adopt a rule that prohibits a person from getting an occupational permit for five years after they have discharged debts in bankruptcy.

This suggested rule is unnecessary as the rule already authorizes disciplinary action against any permit holder who fails or refuses to pay debts related to racing, *i.e.*, veterinarian bills, feed bills, vendor bills, etc. The Commission's authority to impose discipline is not affected by the filing of bankruptcy as the State is exercising its police power to regulate racing. The Commission is already authorized to suspend and refuse to reinstate any permit holder who does not pay his or her racing-related debts regardless of whether the offending permit holder filed for bankruptcy.

The foregoing represents a fair summary of the major issues touched upon in the comments received by the Commission and responses to those comments. The Commission took each and every comment seriously and reviewed them carefully. Many changes that are summarized in "Amendments Made to Rule as a Result of Comments", included with this rule filing, were made to the proposed rule. The Commission believes that this new rule will move the West Virginia Racing Commission into the modern era and will put West Virginia's rule in the mainstream of racing regulation.

AMENDMENTS MADE TO RULE AS A RESULT OF COMMENTS

THOROUGHBRED RACING 178 CSR 1

The following amendments were made to the rule as a result of comments received:

The Commission received a comment from an equine veterinarian which caused the Commission to vote to make the changes that are underlined in the following rule pertaining to blood doping agents:

> 48.4.c. The possession and/or use of blood doping agents (agents that abnormally enhance the oxygenation of body tissue), including but not limited to those listed below, on the premises of a facility under the jurisdiction of the Racing Commission is forbidden:
>
> 48.4.c.1. Erythropoietin;
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> 48.4.c.2. Darbepoetin;
>
> 48.c.3. Oxyglobin®;
>
> 48.c.4. Hemopure®; and
>
> 48.c.5. Aransep.

The changes were made to make the rule clearer and more precise as to what a blood doping agent is and to add a substance that is used as a blood doping agent to make the rule more complete. This portion of the rule was numbered 49.4.c. *et seq.* in the version that was put out for public comment. However, an incorrect numbering sequence was corrected in the agency approved version that is now filed. This correction in sequence caused the numbering of this portion of the rule to change to 48.4.c. *et seq.*

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The Commission received a comment from an equine veterinarian advocating for the Commission to change its proposed rule which prohibits the use of extracorporeal shock wave therapy or radial pulse wave therapy on thoroughbreds. The commenting party requested that the Commission allow such therapy with certain restrictions. Extracorporeal shockwaves are high-pressure, low frequency sound waves, generated by a device outside the body and applied to the affected tissue in a site-specific manner. This type of therapy was originally used to treat human beings with kidney stones, by breaking up the stones without the need for invasive surgery. More recently, shockwaves have been used to treat a range of orthopedic conditions in both human beings and animals. When the shockwaves meet tissue interfaces of different densities, the energy contained in the shockwaves is released and interacts with the tissue. The shockwaves appear to

relieve pain and accelerate healing within the injured tissue. Extracorporeal shock waves are indicated for the treatment of various orthopedic conditions that cause lameness in horses. The Commission consulted Dr. Scot Waterman, D.V.M., the Executive Director of the Racing Medication and Testing Consortium (RMTC), about the advisability of adopting a rule allowing this therapy. Dr. Waterman advised that the Commission should honor the commenting party's request and that it should adopt the Model Rule promulgated by the Association of Racing Commissioners International (RCI) on the use of this therapy in thoroughbred race horses.

Therefore, the Commission voted to strike the proposed rule prohibiting such therapy and to adopt the RCI Model Rule language allowing such therapy with certain restrictions. The following shows the proposed language that the Commission deleted and the language that the Commission now adopts:

~~49.4.d. The use of extracorporeal shock wave therapy or radial pulse wave therapy shall not be permitted on horses racing in this state and extracorporeal shock wave therapy or radial pulse wave therapy equipment shall be prohibited on association grounds.~~

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

48.4.d.1. Any treated horse shall not be permitted to race for a minimum of ten (10) days following treatment;

48.4.d.2. The use of extracorporeal shock wave therapy or radial pulse wave therapy machines shall be limited to veterinarians holding occupational permits issued by the Commission;

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

48.4.d.4. All extracorporeal shock wave therapy or radial pulse wave therapy treatments must be reported to a Racing Commission veterinarian on a prescribed form not later than the time established by a Racing Commission veterinarian.

The changes were made to allow the therapy based upon the expert advice received by the Commission and to bring the Commission's rule in line with the RCI Model Rule, which is the industry standard. A correction in numbering sequence caused the numbering for this portion of the rule to change from 49.4.d. to 48.4.d. *et seq*.

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The Commission received a comment from a veterinarian, Scot Waterman, the Executive Director of the Racing Medication and Testing Consortium (RMTC), stating that the Commission's proposed rule which sets forth penalty guidelines for violations of the medication rule should be altered. Specifically, Dr. Waterman advised that the proposed rule sets penalty guidelines based upon the classification (1, 2, 3, 4 or 5) that the medication is placed in. Dr. Waterman pointed out that the RCI Model Rule has given each specific medication a letter designation (A, B, C or D) in addition to placing each medication in a number classification. Dr. Waterman advised that even though certain medications may be in the same number classification, they are sufficiently different in character that a different penalty should be attached to them. Dr. Waterman commented that adopting the penalty guidelines set forth in the proposed rule makes the penalties for some drugs too harsh, while others will be too lenient. Dr. Waterman further commented that the RMTC worked two years to develop the letter designations with input from national racing industry stakeholders to create a fair and balanced approach to determining penalties.

Therefore, the Commission voted to amend its rule to use the letter designations established in the RCI Model Rule and to base its penalty guidelines on the letter designations. These amendments resulted in changes/additions reflected in the following sections and tables of the agency approved rule: 49.3.c., 49.3.d., 49.3.f., Table 178-1 D and Table 178-1 E.

These changes were made to make the penalty guidelines for medication violations more fair and balanced and to bring the Commission's rule in line with the RCI Model Rule, which is the industry standard.

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The Commission received one or more comments from horsemen and practicing veterinarians about the Commission's rule allowing a Racing Commission veterinarian to order the examination of any thoroughbred that expires on the racetrack or that suffers a breakdown resulting in euthanization. Specifically, the commenting parties opposed the requirement in the rule that the owner of the horse hire and pay for a veterinarian to conduct the examination of the thoroughbred. The Commission voted to change this rule to place the onus on the Racing Commission to hire a veterinarian to conduct the examination and to pay for such examination. Changes are reflected in sections 52.2.b., 52.2.d., 52.2.e. and 52.2.f. of the agency approved rule and the costs are addressed in the Fiscal Note provided with this rule.

The changes were made to be fair and equitable to thoroughbred owners. The Commission determined that it was fair for the State to pay for the examination(s) if its State veterinarian(s) ordered the examination(s).

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The Commission received one or more comments that it should change the language of a medication rule that provides that if a drug is found in a pre- or post-race sample and the drug is not classified in the Uniform Classification Guidelines of Foreign Substances as promulgated by the Association of Racing Commissioners International (RCI (revised January 2010), which is Table 178-1 D at the end of the proposed rule, then there is a presumption that the drug is a Class 1 drug, unless proven otherwise. The commenting parties requested that the Commission remove the presumption from the rule.

The Commission voted to remove the presumption and to provide that unclassified drugs found in thoroughbreds be forwarded to the Racing Medication and Testing Consortium (RMTC) for classification. The changes are reflected in section 49.3.f. of the agency approved rule.

The changes were made in order to be fair and equitable to thoroughbred owners and/or trainers.

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The Commission received one or more comments requesting that the Commission add additional thresholds for medication and other substances administered to and found in thoroughbreds. The proposed rule that was put out for public comment adopted all but two medication/substance thresholds that are currently in the RCI Model Rule, which is the industry standard. The two medication thresholds that were not put in the proposed rule that was put out for public comment are Flunixin and Ketoprofen, two non-steroidal anti-inflammatory drugs (NSAIDs) administered for pain. Commenting parties requested that the Commission adopt a very lengthy list of medication/substance thresholds, in addition to those already in the proposed rule. To the best of the Commission's knowledge, no racing jurisdiction in the United States has adopted thresholds for all of the medications/substances advocated by the commenting parties. Moreover, the additional costs for testing that are associated with quantification to determine if a threshold level of a drug/substance is present in a thoroughbred are considerable.

Weighing all information available to it, the Commission voted to amend the rule to add thresholds for Flunixin and Ketoprofen. These two thresholds will be in addition to those already in the proposed rule that was put out for public comment. This will bring West Virginia's thoroughbred medication rule in complete agreement with all thresholds set forth in the RCI Model Rule, which is the industry standard. The changes are reflected in sections 49.6. through 49.6.b of the agency approved rule. The Commission is open to undertaking future rule-making endeavors to consider changing or adding thresholds if science and industry standards support the same.

The changes were made to bring West Virginia's thoroughbred medication rule in complete alignment with the RCI Model Rule, which is the industry standard.

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The Commission received a comment from a veterinarian, Scot Waterman, the Executive Director of the Racing Medication and Testing Consortium (RMTC), that the Commission strike the following proposed rule:

> 51.2.d. The chemist shall utilize only the thin layer chromatography (TLC) screening process to test for the presence of Class 4 and 5 medications in specimens taken from racehorses except when thresholds of a Class 4 or 5 medication are established in this rule. Once a specimen has been identified as suspicious for a Class 4 or 5 medication by the TLC screening process, the specimen shall be sent for confirmation by and through additional testing methods. All other medications not classified by this rule as a Class 4 or 5 agent shall be subject to all forms of testing available.

Dr. Waterman advised the Commission that:

> Thin Layer Chromatography is an archaic screening technology that does not have the requisite sensitivity to properly regulate many of the drugs used in horse racing. While we understand the desire to limit the sensitivity of testing for those substances that may have the most therapeutic value there are many drugs within RCI Class 4 in particular that need to be regulated at concentrations that Thin Layer Chromatography cannot reach. The laboratory must be able to detect flunixin for instance, which is a very commonly used NSAID, at concentrations below 50 nanograms per millimeter of serum or plasma in order to regulate 24-hour administration. Thin Layer Chromatography cannot detect below approximately 100 ng/ml of flunixin in a sample. In addition, similar to the language proposed under the penalty section, any blanket regulations utilizing solely the RCI number classification misses a large part of the picture. There are many drugs within RCI Class 4 that have never been studied in the horse and are therefore questionable in terms of their therapeutic effect and many can be used to manipulate performance if desired. The Commission in our view needs the flexibility to screen samples for RCI Class 4 drugs using other methodologies.

Accordingly, the Commission voted to strike this section so that it does not impose this archaic testing methodology upon its testing laboratories.

The change was made to provide the necessary flexibility needed for testing by the Commission's testing laboratories.

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The Commission received a comment requesting that we add clarifying language to a section pertaining to issuance of occupational permits. The following "strike through/underline" shows the clarifying language in the agency approved rule:

24.7.a. Every occupational permit is for one (1) year and expires on December 31 ~~of each year~~ in the year for which it was issued, unless otherwise approved by the stewards or the Racing Commission.

The Commission voted to make the above-recited change.

The change was made to make the rule clear.

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The Commission received one or more comments that it should not assess costs against thoroughbred owners in the event that there are positive tests for prohibited substances. Currently, the Commission's Thoroughbred Racing rule does not provide for such assessment and the commenting parties wish to maintain the status quo.

The Commission voted to delete language in the following sections which provided for assessment of costs for positive tests in thoroughbreds. The language in question is stricken through:

50.3.g. All blood and urine specimens shall be frozen. The racing association shall pay all laboratory expenses for blood and urine analysis. ~~In the event that the laboratory analysis of blood or urine specimen reveals the presence of a prohibited substance in violation of this rule, the association may assess the laboratory expenses against the horsemen's bookkeeper's account of the owner of the horse.~~

50.3.h. Specimens of other bodily substances or tissues may be collected and forwarded to an official chemist by a Racing Commission veterinarian or his or her designee. The Racing Commission shall pay all laboratory expenses for analysis of such bodily substances or tissues. ~~In the event that the laboratory analysis of a bodily substance or tissue reveals the presence of a prohibited substance in violation of these rules, the Racing Commission may assess the laboratory expenses against the horsemen's bookkeeper's account of the owner of the horse.~~

The changes were made in order to be fair and equitable to thoroughbred owners. These rules were numbered 51.3.g. and 51.3.h. in the proposed rule put out for public comment. The numbering changed due to a correction in numbering sequence. These two rules are now numbered 50.3.g. and 50.3.h.

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The Commission received one or more comments that it should delete and/or revise rules which require that horses be in the paddock at least twenty minutes before post time, unless

otherwise authorized by the stewards. The Commission understands that a period of twenty minutes may be too long and/or unnecessary for various reasons.

The Commission voted to delete this rule which reads as follows:

> 46.6.a. Horses shall be in the paddock at least twenty (20) minutes before post time unless otherwise authorized by the stewards.

The Commission also modified language in section 26.4.g. of the agency approved rule so as to take the twenty minute requirement out of that section.

The changes were made to provide flexibility to horsemen, jockeys, track management and racing officials with regard to the deadline for the presence of horses in the paddock before post time.

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The Commission received a comment from Dr. Scot Waterman, the Executive Director of the Racing Medication and Testing Consortium (RMTC), in the course of consulting with Dr. Waterman on its proposed rule, that the Commission should delete certain vague and ambiguous language in the following sections. The language that Dr. Waterman suggests should be deleted is stricken through.

> 48.4.b. The possession or use of a drug, substance, or medication on the premises of a facility under the jurisdiction of the Racing Commission that has not been approved by the United States Food and Drug Administration (FDA) for any use in humans or animals is forbidden without prior permission of the Racing Commission or a Racing Commission veterinarian. This rule shall not restrict the recognized off-label use of any FDA approved medication~~, and the term "substance" shall not include biological products routinely used in veterinary or medical practice such as vaccines, plasma, and hormones and related substances, and, as such, their possession and use is permitted.~~

> 49.13.a. Any horse on the grounds at a racetrack under the jurisdiction of the Racing Commission; or under the care or control of trainer or owner holding an occupational permit issued by the Racing Commission is subject to testing for blood and/or gene doping agents without advance notice. This rule does not apply to therapeutic medications approved by the FDA for use in the horse; the recognized off-label use of any FDA approved medication; ~~and, biological products routinely used in veterinary or medical practice such as vaccines, plasma, and hormones and related substances.~~

Dr. Waterman advised that this language was vague and ambiguous and would be difficult for the Commission to enforce and administer. Therefore, the Commission voted to strike this language from the rule. These two sections were numbered 49.4.b. and 50.13.a. in the rule put out for public comment. When a correction in numbering sequence was made for the agency approved rule, these sections changed to 48.4.b. and 49.13.a.

The changes were made to remove ambiguity from the rule.

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The Commission received one or more comments that section 58.1.c. of the proposed rule (one of the requirements for qualification for the West Virginia accredited race fund) should be changed to agree with language in West Virginia Code § 19-23-13b(h)(3).

This change is made to assure that the rule and the code do not conflict or otherwise differ. The language in section 58.1.c. of the agency approved rule now tracks the language in West Virginia Code § 19-23-13b(h)(3).

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The Commission received one or more comments that it should promulgate a rule that requires the racing secretaries at the racetracks to have the same race day deadline for the closure of entries for all races. Presently, the racing secretaries have the discretion to close entries for some races at the advertised time and have the discretion to extend the closure of entries for other races past the advertised time. West Virginia thoroughbred breeders and owners have expressed dissatisfaction to the Commission over what is perceived as the closing of entries for races restricted to West Virginia accredited thoroughbreds at the advertised time and the subsequent cancellation of those races because there are not sufficient horses entered to make the race go. (West Virginia Code § 19-23-13b(f)(1) requires seven single betting interests for there to be "sufficient horses" for a restricted race.) The West Virginia breeders and owners have complained that the racing secretaries will often extend the closure of entries past the advertised time for those races not restricted to West Virginia accredited thoroughbreds in an effort to fill those races, but will not provide the same extension of the closure time for West Virginia restricted races to allow more time to fill them. The West Virginia breeders and owners request that the Commission adopt a rule that "levels the playing field" for the closure of entries on all races, both West Virginia restricted and unrestricted.

The Commission voted to adopt a rule that addresses the West Virginia breeders' and owners' concerns. The changes to the rule that address this issue are reflected in section 39.4.a. and 39.4.c. of the agency approved rule

The changes were made to level the playing field for the closure of entries on all races, both West Virginia restricted and unrestricted.