WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION

Form #2

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia Racing Commission TITLE NUMBER: 178

RULE TYPE: Legislative CITE AUTHORITY: 19-23-5;19-23-6;19-23-8; 19-23-13

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: ___

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON July 14, 2003 AT 4:00 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Linda L. Lacy
Executive Secretary
West Virginia Racing Commission
106 Dee Drive, Suite 2
Charleston, WV 25331

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

Brian J. Kester
Authorized Signature

ATTACH A BRIEF SUMMARY OF YOUR PROPOSAL

$14.00

West Virginia Racing Commission
Legislative Rule
Title 178, Series 1

THOROUGHBRED RACING

BRIEF SUMMARY OF RULE

The rule amends several sections of the existing rules for Thoroughbred Racing.

This rule permits the Racing Commission to employ a Registered Veterinary Technician to assist the Racing Commission Veterinarian in the performance of all lawful duties as defined by the statutory and regulatory scheme of the West Virginia Board of Veterinary Medicine.

This rule also sets forth factors to be considered in the determination of whether an occupational permit shall be issued or re-issued to an applicant who has been convicted of a crime involving moral turpitude in the ten years prior to application.

This rule further amends the existing rule as it applies to the administration of medication to thoroughbred horses. First, this rule permits the administration of narrowly-defined adjunct medications to thoroughbred horses. Second, this rule forbids the possession of certain experimental drugs lacking F.D.A. approval on the grounds of any licensed racing association.

Finally, this rule recognizes the organization representing a majority of the active jockeys in West Virginia in order to establish a trust to administer the existing Health and Disability Benefit Fund for West Virginia Jockeys. This rule also provides criteria for administration of the fund.

West Virginia Racing Commission
Legislative Rule
Title 178, Series 1

THOROUGHBRED RACING

STATEMENT OF CIRCUMSTANCES

The amendments to this rule address Legislative requirements and the need for revision of certain existing rules. West Virginia Code § 19-23-6(3) permits the Racing Commission to implement reasonable rules for thoroughbred racing.

West Virginia Code § 19-23-5(b) permits the Racing Commission hire employees "essential" to thoroughbred racing. This rule authorizes the Racing Commission to hire Registered Veterinary Technicians to assist the Commission's Veterinarian at each track. A need for this rule arises out of the limited pool of potential veterinarians to assist the Commission's Veterinarian.

Pursuant to West Virginia Code § 19-23-8(g) the Racing Commission is required to propose rules establishing criteria for the approval or denial of a license or permit. Certain language in this section was amended by the Legislature in 2001. The Racing Commission now offers rules addressing these changes in the law.

The Racing Commission sets forth certain rules for the administration of medications to thoroughbred horses. In light of the common, safe and effective usage of certain, narrowly defined adjunct medications, the Racing Commission proposes a rule that will permit the use of such medications. Moreover, in light of the use of certain unlawful experimental drugs in the racing community that may evade laboratory detection, the Racing Commission proposes a rule to forbid the possession of drugs awaiting FDA approval on the grounds of a licensed racing association.

West Virginia Code § 19-23-13(b)(5)(C) and (D) were added to this section by the Legislature in 2001 and require the Racing Commission to promulgate rules recognizing the organization of the majority of active jockeys in West Virginia so that organization may maintain and administer a trust providing health and disability benefits to active or disabled West Virginia jockeys and their dependents.

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 25331

1. Effect of Proposed rule:

	ANNUAL		FISCAL YEAR		
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	None	None	None	None	None
PERSONAL SERVICES	None	None	None	None	None
CURRENT EXPENSE	None	None	None	None	None
REPAIRS & ALTERATIONS	None	None	None	None	None
EQUIPMENT	None	None	None	None	None
OTHER	None	None	None	None	None

2. Explanation of Above Estimates:

The West Virginia Racing Commission does not anticipate that these amendments will increase or decrease costs.

3. Objectives of These Rules: The objectives of these rules are: (1) to authorize the employment of a Registered Veterinary Technician to assist Racing Comission Veterinarian; and (2) to provide guidelines for assessment of applicants for occupational permits with criminal convictions in the past 10 years.

(3) to extend the period for shipping of split samples from seventy-two hours to three business days from the day of request.

(4) to add guidelines for maintenance and administration of a Health and Disability Fund for West Virginia Jockeys.

(5) to modify rules relating to the administration of medications to permit the administration of narrowly defined adjunct medications and to make it unlawful to possess certain experimental drugs on their person; on licensed racing premises and on the grounds of any approved stabling facility.

Rule Title: Thoroughbred Racing Title 178, Series 1

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:
None

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:
None

C. Economic Impact on Citizens/Public at Large.
None

Date: 6/13/2007

Signature of Agency Head or Authorized Representative:

TITLE 178
LEGISLATIVE RULE
RACING COMMISSION

SERIES 1
THOROUGHBRED RACING

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

§178-1-1. General.

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

1.2. Authority. -- W. Va. Code §§ 19-23-5, 19-23-6; 19-23-8; and 19-23-13..

1.3. Filing Date. --~~May 16, 2001.~~

1.4. Effective Date. -- ~~July 1, 2001.~~

§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:

2.1.1. foaled in West Virginia; or

2.1.2. 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 West Virginia thoroughbred breeders association.

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

2.4. "Adjunct medication" means Aminocaproic acid, Tranexamic acid, and Carbazochrome. This definition includes only the medications specifically listed herein.

~~2.4~~ 2.5. "Age" means the age of a horse, which is reckoned as beginning on the first day of January in the year in which it is foaled.

~~2.5~~ 2.6. "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~~ 2.7. "Appeal" means a request for the Racing Commission or its designee to investigate, consider and review any decisions or rulings of the stewards of a meeting.

~~2.7~~ 2.8. "Applicant" means any racing association making application for a license or any person making application for a permit, or any person making application for a construction permit, as the case may be.

~~2.8~~ 2.9. "Arrears" include all moneys due for entrance fees (including jockeys' fees), fines, subscriptions for stakes, purchase money in claiming or selling races and also any default in money incident to the rules.

~~2.9~~ 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 a meeting where horse racing is permitted for any purse involving pari-mutuel

wagering.

~~2.10~~ 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.

~~2.11~~ 2.12. "An authorized agent" means a person appointed by an owner to act as his or her representative in a notarized document signed by the owner and filed with the Racing Commission.

~~2.12~~ 2.13. "Betting interest" means one or more horses in a race involving pari-mutuel wagering which is identified by a single program number for wagering purposes.

~~2.13~~ 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.

~~2.14~~ 2.15. "Bleeder lists" means a tabulation of all horses designated as bleeders to be maintained by the Racing Commission.

~~2.15~~ 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.

~~2.16~~ 2.17. "Breakage" means the remainder after deducting the payout from the net pool.

~~2.17~~ 2.18. "Bred" means the place of a horse's birth.

~~2.18~~ 2.19. "Breeder" means the owner of the horse's dam at the time of foaling.

~~2.19~~ 2.20. "Breeder of an accredited West Virginia horse" means the owner of the foal at the time it was born in West Virginia.

~~2.20~~ 2.21. "Chairman of the racing commission" means the chairman of the Racing Commission, or his or her designee.

~~2.21~~ 2.22. "Claiming race" means a race in which, according to the conditions, any of the participating horses involved may be claimed.

~~2.22~~ 2.23. "Commission" means the West Virginia Racing Commission.

~~2.23~~ 2.24. "Commissioner" means a member of the West Virginia Racing Commission.

~~2.24~~ 2.25. "Complaint" means all signed written complaints made to the Racing Commission or any of its representatives.

~~2.25~~ 2.26. "Conditions" are qualifications that determine a horse's eligibility to participate in a race.

~~2.26~~ 2.27. "Construction permit holders" means any person holding a construction permit required by the Racing Commission.

~~2.27~~ 2.28. "Course" means the racing strip over which horses race.

~~2.28~~ 2.29. "Day" means a 24-hour period ending at midnight.

~~2.28.1~~ 2.29.1. "Dark day" means a day during a racing meeting in which neither live nor simulcast pari-mutuel wagering is conducted.

~~2.28.2~~ 2.29.2. "Race day" means a calendar day during a race meeting in which pari-mutuel wagering is conducted on live racing.

~~2.28.3~~ 2.29.3. "Simulcast race day" means a day during a race meeting in which pari-mutuel wagering is conducted on races being conducted at a location other than the racetrack where the wager is placed.

~~2.29~~ 2.30. "Dead heat" means the finish of a race in which the noses of two or more horses reach the finish line at the same time.

~~2.30~~ 2.31. "Draw" means the process of selecting thoroughbreds and determining by lot their post or starting gate positions for a race in a manner to ensure compliance with the conditions of the rules of racing.

~~2.31~~ 2.32. "Entry" means:

~~2.31.1~~ 2.32.1. a horse eligible for and entered in a race; or

~~2.31.2~~ 2.32.2. two (2) or more horses entered in the same race, which have common ties of ownership, lease or training.

~~2.32~~ 2.33. "Executive secretary" means the racing secretary of the Racing Commission.

~~2.33~~ 2.34. "Field" means a single betting interest involving more than one 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.

~~2.34~~ 2.35. "Flat Race" means races in which horses mounted by jockeys run over a course on which no jumps or other obstacles are placed.

~~2.35~~ 2.36. "Fund" means the West Virginia thoroughbred development fund established under the provisions of W. Va. Code §19-23-13b.

~~2.36~~ 2.37. A "Handicap" is a race in which the weights to be carried by the horses are adjusted by the handicapper, for the purpose of equalizing their chances of winning.

~~2.37~~ 2.38. "Handle" means the total amount of all pari-mutuel wagering sales less refunds and cancellations.

~~2.38~~ 2.39. "Harness racing" means horse racing in which the horses participating in the race are harnessed to a sulky, carriage or other vehicle and does not include any form of horse racing in which the horses are mounted by jockeys.

~~2.39~~ 2.40. "Horse" means an equine registered to race including and designated as a mare, filly, stallion, colt, ridgeling or gelding.

~~2.40~~ 2.41. "Horse racing" means any type of equine racing, including, but not limited to thoroughbred racing and harness racing, involving pari-mutuel wagering.

~~2.41~~ 2.42. "Horse race meeting" means the whole period of time ending on December 31st for which the Racing Commission requires a license.

~~2.42~~ 2.43. "Inquiry" means an investigation by the stewards of potential interference in a race prior to declaring the result of that contest official.

~~2.43~~ 2.44. "Jockey" means a professional rider issued an occupational permit to ride in races.

~~2.44~~ 2.45. "Legitimate breakage" means the percentage left over in the division of a pool.

~~2.45~~ 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.

~~2.46~~ 2.47. "Licensee" means any racing association holding a license required by the provision of W.

Va. Code §19-23-1 et seq. and issued under this rule.

~~2.47~~ 2.48. "Maiden" means a horse, which has never, in any country, won a race on the flat, other than in a match or private sweepstakes. A maiden which has been disqualified, after having finished first is still to be considered a maiden.

~~2.48~~ 2.49. "Maiden race" means a contest restricted to nonwinners.

~~2.49~~ 2.50. "Match" means a private sweepstake made between two (2) horses. If either horse to a match, dies or a dead heat is run, the match is off.

~~2.50~~ 2.51. "Meet" means the specified periods and dates within a racing meeting, during which an association is authorized by the Racing Commission to conduct racing and/or pari-mutuel wagering.

~~2.51~~ 2.52. "Meeting" means the total specified periods and dates each year during which an association is authorized by the Racing Commission to conduct racing and/or pari-mutuel wagering.

~~2.52~~ 2.53. "Month" means a calendar month.

~~2.53~~ 2.54. "Nerved" means any horse on which a neurectomy has been performed.

~~2.54~~ 2.55. "No contest" means a race canceled for any reason by the stewards.

~~2.55~~ 2.56. "Nominator" means the person in whose name the horse is entered for a race.

~~2.56~~ 2.57. "Objection" means:

~~2.56.1~~ 2.57.1. a written complaint made to the stewards concerning a horse entered in a race and filed not later than one hour before the scheduled post time of the first race on the day in which the questioned horse is entered; or

~~2.56.2~~ 2.57.2. a verbal claim of foul in a race lodged with the stewards or their designee by the horse's jockey, trainer, owner or the owner's authorized agent before the stewards declare the race official.

~~2.57~~ 2.58. "Official order of finish" means the order of finish of the horses in a contest as declared official by the stewards.

~~2.58~~ 2.59. "Official starter" means the official responsible for dispatching the horses for a race.

~~2.59~~ 2.60. "Official time" means the elapsed time from the moment the first horse crosses the starting point until the first horse crosses the finish line.

~~2.60~~ 2.61. "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.

~~2.61~~ 2.62. "Outs" or "Outstanding tickets" means a winning or a refundable pari-mutuel ticket, which was not cashed during the performance for which it was issued.

~~2.62~~ 2.63. "Overnight" means a race or handicap for which the entries or acceptances are to be made, or if a handicap, acceptances are to be made, seventy-two (72) hours or less (exclusive of Sunday) before the time set for the first race on the day on which the race is to be run.

~~2.63~~ 2.64. "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.

~~2.64~~ 2.65. "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.

~~2.65~~ 2.66. "Owner of an accredited West Virginia sire" means the owner of record at the time the offspring is conceived.

~~2.66~~ 2.67. "Paddock" means an enclosure in which horses scheduled to compete in a contest are saddled prior to racing.

~~2.67~~ 2.68. "Pari-mutuel" means a mutuel or collective pool that can be divided among those who have contributed their wagers to one central pool. The odds of these wagers are to be reckoned in accordance with the collective amounts wagered upon each horse running in a horse race relative to the amount wagered on each horse in each pool with the total to be divided among the first three contestants on the basis of the number of wagers.

~~2.68~~ 2.69. "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.

~~2.69~~ 2.70. "Patron" means a member of the public present on the grounds of a pari-mutuel association during a meeting for the purpose of wagering or to observe racing.

~~2.70~~ 2.71. "Performance" means a schedule of races run consecutively as one program.

~~2.71~~ 2.72. "Permit holder" means any person holding a permit required by the Racing Commission.

~~2.72~~ 2.73. "Person" means any individual, partnership, firm, association, corporation or other entity or organization of whatever character or description.

~~2.73~~ 2.74. "Pool" means a combination of interests in a joint wagering enterprise or a stake in the enterprise.

~~2.74~~ 2.75. "Post position" means the assigned by lot position from which a horse will leave the starting gate.

~~2.75~~ 2.76. "Post time" means the time set for the arrival at the starting point of the horses in a race. It 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.

~~2.76~~ 2.77. "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 Chemist.

~~2.77~~ 2.78. "Private sweepstake" means one to which no money or other prize is added and which has not at any time been advertised either by publication, or by circular, or entry blank, or in any other way.

~~2.78~~ 2.79. "Produce race" means one to be run for by the produce of horses named or described at the time of entry.

~~2.79~~ 2.80. "Program" means the published listing of all contests and contestants for a specific performance.

~~2.80~~ 2.81. "Prospective licensees" means any association which has applied or intends to apply to become a "licensee" as defined under the provisions of W. Va. Code §19-23-1 et seq.

~~2.81~~ 2.82. "Purse" means the total cash amount for which a race is contested.

~~2.82~~ 2.83. "Purse race" means a race for money or other prize to which the owners of the horses engaged do not contribute.

~~2.83~~ 2.84. "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.

~~2.84~~ 2.85. "Racing association" means any individual, partnership, firm, association, corporation, or other entity or organization of whatever character or description licensed in accordance with W. Va. Code §19-23-1 et seq. to hold a horse race meeting.

~~2.85~~ 2.86. "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.

~~2.86~~ 2.87. "Random testing" means a strategy for testing for alcohol or controlled substances not based on a reasonable belief that an individual has drugs and/or alcohol in his or her system that assures that all affected individuals have an equal probability of being selected for testing.

~~2.87~~ 2.88. "Reasonable cause/reasonable suspicion testing" means a strategy for testing for alcohol or controlled substances based on an official's having good reason to believe that a permit holder has alcohol or a controlled substance in his or her system.

~~2.88~~ 2.89. "Recognized meeting" means:

~~2.88.1~~ 2.89.1. a meeting held under license of the Racing Commission; or

~~2.88.2~~ 2.89.2. 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 improper turf practices.

~~2.89~~ 2.90. "Restricted area" means an enclosed portion of the association's ground where access is limited to an occupational permit holder.

~~2.90~~ 2.91. "Result" means that part of the official order of finish used to determine the pari-mutuel payout of pools for each individual contest.

~~2.91~~ 2.92. "Ruled-off" means the act of disallowing a person to enter or remain upon the premises of any or all licensed racetracks and/or simulcast facilities.

~~2.92~~ 2.93. "Scratch" means the act of withdrawing an entered horse from a contest after the closing of entries.

~~2.93~~ 2.94. "Scratch time" means the deadline for withdrawal of entries from a scheduled performance.

~~2.94~~ 2.95. "Secretary" means the Secretary of the West Virginia Department of Tax and Revenue, or his or her designee.

~~2.95~~ 2.96. "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.

~~2.96~~ 2.97. "Sponge" means a sponge or other objects that is used to interfere with the respiratory system of a horse.

~~2.97~~ 2.98. "Stable name" means a name used other than the actual legal name of an owner or lessee of a horse. Stable names shall be registered with the Racing Commission.

~~2.98~~ 2.99. "Stakes race" means a contest in which nomination, entry and/or starting fees contribute to the purse. No overnight race shall be considered a stake's race.

~~2.99~~ 2.100. "Starter" means a horse in a stall of a starting gate at the time the stall doors of the starting gate open in front of the horse when the official starter dispatches the field.

~~2.100~~ 2.101. "Stewards" means the person or persons designated to represent the Racing Commission whose duty it is to supervise any horse race meeting as may be provided by reasonable rules of the Racing Commission

~~2.101~~ 2.102. "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.

~~2.102~~ 2.103. "Tailed" means the restraining of an unruly horse in the starting gate by manually raising his tail.

~~2.103~~ 2.104. "Tonged" means the restraining of an unruly horse in the starting gate by clamping his ear with a set of tongs.

~~2.104~~ 2.105. "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.

~~2.105~~ 2.106. "To the dime" means that wagers will be figured and paid to the dime.

~~2.106~~ 2.107. "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.

~~2.107~~ 2.108. "Walkover" means a race in which only one (1) horse starts or in which all the starters are owned by the same interest.

~~2.108~~ 2.109. "Week" means a calendar week.

~~2.109~~ 2.110. "Weigh in" means a presentation of a jockey to the clerk of scales for weighing after a race.

~~2.110~~ 2.111. "Weigh out" means the presentation of a jockey to the clerk of scales for weighing prior to a race.

~~2.111~~ 2.112. "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.

~~2.112~~ 2.113. "Winner" means the horse whose nose reaches the finish line first or is placed first through disqualification by the stewards.

~~2.113~~ 2.114. "Year" means a calendar year.

§178-1-3. Calculation of Time.

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

§178-1-4. Administrative.

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

4.2. The Racing Commission may rescind or modify any penalty or decision for infraction of this rule imposed or made by the racing stewards. The laws of the State of West Virginia and this rule promulgated by the Racing Commission supersede the conditions of a race or the regulations of a racing association.

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

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

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

4.6. Any occupational permit holder or licensee who in any manner, or at any time, disturbs the peace or makes himself or herself obnoxious on the grounds of an association will be subject to fine and or suspension.

4.7. 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.

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

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

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

§178-1-5. Financial Responsibilities.

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

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

§178-1-6. Minors.

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

6.2. A pari-mutuel ticket shall not be sold to a minor nor shall a minor be permitted to cash a pari-mutuel ticket at any licensed racetrack. The Racing Commission shall not issue an occupational permit to any minor in any manner except in the capacity of a jockey, jockey apprentice, exercise rider, groom, or employed in any other capacity as approved by the Racing Commission.

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

6.4. It is the responsibility of the racing association conducting a racing meet under a license issued by the Racing Commission to assure that all children under the age of sixteen (16) years are properly supervised by an adult when admitted to the association grounds. If unsupervised children becomes a repeated problem the Racing Commission may fine the licensed racing association two hundred fifty dollars ($250) per occurrence. Minors under the age of sixteen (16) years may not be admitted in a restricted area without the written permission of the stewards, except in case of an emergency. Failure of any licensee or occupational permit holder to properly supervise any minor admitted with the licensee or occupational permit holder to a restricted area may be fined not less than two hundred fifty dollars ($250) and/or suspended.

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

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

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

§178-1-8. Associations.

8.1. An association wishing to obtain a license to conduct a race meeting shall file yearly with the Racing Commission on forms prescribed by the Racing Commission; the forms shall be signed by an executive officer of the association.

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

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

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

8.4. Each licensee shall file audited financial statements on or before the 15th of April of each year unless otherwise authorized by the Racing Commission. 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.

8.5. An association granted a license from the Racing Commission shall, at least thirty (30) days before each meet, submit the names of its officers and a complete list of administrative personnel, showing their addresses, duties and compensations. At least two (2) weeks after the start of each meet, the association shall submit a complete list of all other employees, with their addresses, duties and compensations. The association shall promptly report all additions or changes in personnel to the Racing Commission for

approval. The Racing Commission may fine an association failing to furnish the required information two hundred fifty dollars ($250) for each day it fails to provide the information.

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

8.6.1. Anyone buying the assets of an association must apply for a racing license from the Racing Commission.

8.7. Thirty (30) days before conducting a meet, each association shall, submit to the Racing Commission the conditions for all races it proposes to hold, together with the stake, purse or reward, all of which are subject to the approval of the Racing Commission. All proposed purses are exclusive of any entrance or starting fees that may be charged.

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

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

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

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

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

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

8.14. Each racing association shall police its grounds at all times in a manner to prevent the admission of persons in and around the stables unless they hold occupational permits issued by the Racing Commission.

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

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

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

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

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

8.20. Each racing association shall submit to the Racing Commission for approval at least thirty (30) days prior to the opening date of each meeting the proposed total regular purse distribution. In addition, the association shall at the same time submit for approval the proposed total stakes purses. The minimum purse for all races shall be two thousand (2,000) dollars.

8.21. 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 W. Va. Code §19-23-10 and this rule.

8.22. An association and its officers are jointly and severally obligated as part of their duties to ensure that the amounts retained from the pari-mutuel handle are distributed according to the Code and Racing Commission rules.

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

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

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

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

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

8.28. No racing association conducting a race meeting with a license issued by the Racing Commission shall permit wagering to be made on the grounds of the association on any race run outside of the grounds, except as provided by the West Virginia Code. No foreign book or gambling device of any kind is permitted on the grounds, nor shall the association provide or permit to be provided any conveniences or facilities for the use of bookmakers, betting commissioners, their agents or their employees, except as provided by the West Virginia Code. No facilities shall be provided or permitted for the handling of "Come-back" money at the track. The maintenance of credit accounts or the granting or extension of credit or cash by the association in any form including markers, the payment of commissions in any form, the providing of telephone or other communication services and any other form of aid to bookmakers, betting commissioners, their agents or their employees are prohibited. Any licensee violating the provisions of this section shall have its license revoked or other penalty imposed as the Racing Commission, in its discretion, may determine. This subsection does not prohibit wire service privileges or any other form of communication service privileges to legitimate and approved news outlets, which do not service bookmakers, betting commissioners, or their agents or employees. The Racing Commission must approve other forms of communication service privileges must be obtained before the beginning of the race meeting for which the license is granted.

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

8.30. Stands for judges, timers, and stewards shall be maintained in positions commanding an

uninterrupted view of the entire racing strip and shall be appropriately maintained and furnished. The stands are subject to approval by the Racing Commission.

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

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

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

8.33. The association shall maintain a sufficient number of police or security officers to maintain order on all parts of the association grounds. No tipsters shall be allowed in any part of the pari-mutuel wagering area or anywhere else upon the grounds of the association. No stable hand, exercise rider, groom, jockey, or stable attendant shall loiter in the pari-mutuel wagering area, or any other place with the evident intention of engaging in tipping for any remuneration or no remuneration. Anyone engaging in this conduct shall be immediately escorted to the general manager of the association. The general manager shall confiscate his or her badge and a written report will be immediately made to his or her employer or supervisor, the stewards and to the Racing Commission. No employer shall harbor or continue to employ any person who has been reported under this subsection.

8.34. The Racing Commission shall approve post time for the first race at each meeting under the supervision of the Racing Commission. And each race thereafter shall be run at intervals to be approved by the Racing Commission, unless an emergency arises, in which case the final decision is in the hands of the steward representing the Racing Commission.

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

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

8.37. 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.

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

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

§178-1-9. Officials.

9.1. Officials of a race meeting, unless otherwise approved by the Racing Commission, are as follows: Three (3) stewards, three (3) placing judges, clerk of the scales, starter, handicapper, timer, paddock judge,

veterinarian, Racing Commission security officer, association's racing secretary and_assistants, horse identifier, and jockey room custodians.

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

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

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

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

9.6. Drinking of intoxicating liquor, or use of any controlled substance, at any time, by any racing official or track employee, occupational permit holder or licensee, or being under the influence of alcohol or any controlled substance while on duty is prohibited. Any person violating this rule shall be relieved of his or her duties by the stewards or a representative of the racing association.

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

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

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

§178-1-10. Stewards.

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

10.2. The stewards are strictly responsible to the Racing Commission for the conduct of all meetings in every detail, directly or indirectly, pertaining to the racing law and rules of the Racing Commission.

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

10.4. All entries and declarations are under the supervision of the stewards, and they may, with notice,

refuse the entries of any person or the transfer of any entries. The stewards may also, in their discretion, limit the entries by providing that no horse shall be entered for two (2) races in one (1) day.

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

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

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

10.8. The stewards may suspend anyone for violations of this rule whom they have authority to supervise for an indefinite period or they may fine that person in an amount not to exceed one thousand dollars ($1,000), or both. The stewards shall report all suspensions and fines to the Racing Commission. The stewards' jurisdiction to act in any matter occurring during the race meeting extends after the conclusion of the meeting.

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

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

10.11. Any complaint against any official shall be made to the stewards in writing and be signed by the complainant. The stewards shall report all complaints to the association's general manager and the Racing Commission, including the stewards' action.

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

10.13. When, in the opinion of the stewards who, after conferring with management, representatives of the horsemen, jockeys, and the track superintendent, determine that the races cannot be run, then the stewards shall cancel said races.

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

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

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

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

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

10.17. The stewards shall take notice of corrupt riding and other questionable behavior on the racing strip. An owner, trainer or the jockey participating in the race or any official representing the association or the Racing Commission may make complaints. However, if the complainant fails to substantiate the charge, the stewards may fine or suspend.

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

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

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

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

10.22. The Racing Commission steward shall maintain a detailed log of the stewards' official activities. The log 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 designee and by anyone appealing the stewards ruling to the Racing Commission.

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

§178-1-11. Racing Secretary.

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

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

11.3. The association's racing secretary shall receive all entries and declarations, and he or she, or any other person designated by the association shall receive all stakes, entrance moneys and fees incident to the meeting within fourteen (14) days after the conclusion of the meeting, disburse all receipts of money to any person that is to receive any money. Owners having unpaid jockey or other fees at the close of a race meeting, shall be billed by the racing association within twenty (20) days of the close of their race meet, with a duplicate copy of a bill to the trainer. All 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 be suspended until the fees are paid.

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

11.5. The association's racing secretary shall publish on the program any information and notices to the

public as the Racing Commission may direct.

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

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

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

§178-1-12. Horsemen's Bookkeeper.

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

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

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

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

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

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

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

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

§178-1-13. Placing Judges.

13.1. The placing judges shall occupy the judges' stand at the time the horses pass the finish line and indicate the order of finish of the horses. If in doubt of the proper order of finish, they may delay posting the result until after they examine the photo of the finish of the race to determine the positions of the horses. Decisions are final, unless an objection to the winner or any horse 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 is posted.

13.2. The placing judges shall determine the order of finishing of as many horses 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 deputy and with the Racing Commission.

13.3. A camera selected by the association conducting the meeting shall be approved by the Racing

Commission and be used to make a photograph or photographs of the horses at the finish to assist the placing judges in determining their positions as exclusively indicated by the noses of the horses.

§178-1-14. Paddock Judge.

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

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

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

§178-1-15. Timer.

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

§178-1-16. Starter.

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

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

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

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

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

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

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

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

16.9. No person shall give to any starter or assistant starter, nor shall any starter or assistant starter receive money, anything of value, or other compensation, other than the salary paid to them by the association for the starter's or assistant starter's services, in connection with the running of any race or races. No starter, or assistant starter, shall either directly or indirectly wager on any race or engage in any wagering transaction or have any interest in any horse.

16.10. If, for any reason, the doors in front of any stall in a mechanical or electrically operated gate fails to open, thereby preventing a horse from starting when the starter dispatches the field, the entire amount

wagered on the affected horse shall be refunded: Provided, That the horse is not part of an entry or part of a field.

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

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

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

§178-1-17. Clerk of Scales.

17.1. The Clerk of scales shall:

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

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

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

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

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

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

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

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

17.3. Seven (7) pounds is the limit of the overweight any horse may carry.

§178-1-18. Jockey Room Custodian.

18.1. The jockey room custodian shall maintain order, decorum, and cleanliness in the jockey and scale rooms.

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

18.3. The custodian shall ascertain that no persons, other than racing officials, the Racing Commission, or its representatives, representative 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.

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

18.5. The custodian shall oversee the jockey's attendants and arrange their rotation among jockeys in the matter of weighing out.

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

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

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

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

§178-1-19. Handicapper.

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

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

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

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

§178-1-20. Horse Identifier.

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

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

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

20.4. Any person attempting to establish the identity of a horse or 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.

§178-1-21. Racing Commission Veterinarian.

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

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

21.3. The Racing Commission veterinarian shall be present in the paddock during the saddling, on the race strip during the parade, and at the starting gate until the horses are dispatched from the gate. He or she shall notify the stewards of any horse, which in his or her opinion is incapable of physically exerting its best effort to win. The stewards may declare or remove that horse from the race. The Racing Commission veterinarian may examine any horse, which appears to be in physical distress during the race and at the finish of the race. He or she shall report the condition of the horse, together with his or her opinion as to the cause of the distress to the stewards. The Racing Commission veterinarian shall place those horses that are physically disabled on the veterinarian's list. He or she may remove from the list those horses, which in his or her opinion can satisfactorily compete, in a race. The Racing Commission veterinarian is authorized to humanely destroy any horse which in his or her opinion is so seriously injured that it is in the best interest of racing and humane consideration to do so, and every horse owner and trainer participating in a race in this State does consent to this rule.

21.4. If an owner or trainer objects to a horse in his or her care undergoing an examination, the owner or trainer may report his or her objection to the stewards and that horse may be scratched from the race.

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

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

21.7. The Racing Commission may employ a Veterinary Technician registered by the West Virginia Board of Veterinary pursuant to W. Va. Code § 30-10-2(m) and 26 C.S.R. 3 "Registration of Veterinary Technicians". A Registered Veterinary Technician employed by the Racing Commission shall perform all lawful duties and shall act under the direct supervision of the Racing Commission Veterinarian.

§178-1-22. Bleeders.

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

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

§178-1-23. Practicing Veterinarian.

23.1. All veterinary practice must conform to the laws of West Virginia relating to agriculture and veterinarians. Every veterinarian, who examines or treats a horse within the racing association's grounds, shall hold an occupational permit issued by the Racing Commission. A duly licensed veterinarian shall list his or her name in the office of the association's racing secretary. The association's racing secretary shall remove from the list, all unlicensed veterinarians. A licensed veterinarian shall maintain a written record of his or her treatments, including the name of any and all drugs and medicines administered or prescribed for a horse or any other animal on the association's grounds. This record shall be made available to the stewards or the Racing Commission upon request. The Racing Commission may permanently bar from the racing grounds any veterinarian who under the jurisdiction of the Racing Commission falsifies any report or written record or who fails to maintain records

23.2. Veterinarians practicing veterinary medicine on a racetrack shall use one (1) time disposable type needles and shall keep them in their possession until disposed of by them off the racetrack grounds. No

person other than a licensed veterinarian may have a needle or syringe or other veterinary instrument of any kind, type or description nor any injectable which might be administered by the needle or syringe on his or her person or in custody, control, or in the possession of any of his or her employees.

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

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

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

23.4.2. In the event of the positive diagnosis of any infectious disease, the diagnosed horse shall remain isolated and quarantined for a period of time determined by the board of stewards.

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

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

§178-1-24. Test Barn.

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

24.1.1. The test barn shall be equipped with:

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

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

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

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

24.1.1.5. hot and cold running water;

24.1.1.6. clean water buckets for each horse; and

24.1.1.7. any other items requested by the Racing Commission.

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

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

24.1.3. Not more than two (2) persons shall accompany the horse into the test barn. The horse shall be washed and walked for a minimum of ten (10) minutes before attempting to collect the sample. No horse

or his or her groom shall be permitted to leave the barn until a sample has been obtained or has been otherwise excused by Racing Commission veterinarian.

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

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

24.1.6. The association shall provide all equipment used in washing and cooling horses.

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

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

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

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

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

24.5. The Racing Commission steward or Racing Commission veterinarian may also require any horse stabled at a racetrack during a meeting to provide any or all of the specimens set forth in subsection 24.4 of this rule.

24.6. The owner, trainer, or other authorized representative shall be present when a saliva, urine, or other specimen is taken from his or her horse. The 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 immediate suspension.

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

§178-1-25. Chemist.

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

25.2. All specimens taken by or under direction of the official veterinarian or other authorized representative of the Racing Commission shall be delivered to the laboratory of the official chemist for analysis. Each specimen shall be marked and bear 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.

25.3. The official Racing Commission veterinarian, the stewards or the authorized representatives of the Racing Commission may take samples of any medicines or other materials suspected of containing

improper medication or drugs which could affect the racing condition of a horse in a race. The Racing Commission veterinarian shall deliver the sample of any improper medication or drugs which may be found in stables or elsewhere on race tracks or in the possession or any person connected with racing, to the official chemist for analysis under the same conditions as are prescribed for analysis of urine. The Racing Commission may retain the sample.

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

§ 178-1-26. Split Samples

26.1. Before sending a sample from a horse to a testing laboratory, the Racing Commission veterinarian or a designated employee shall divide the specimen into two (2) parts. All blood, urine and any other sample collected from a horse and all reports of any testing of these samples, is the property of the West Virginia Racing Commission.

26.2. The Racing Commission veterinarian shall send to the official chemist selected by the West Virginia Racing Commission, hereafter to be referred to as the primary testing laboratory, a minimum of fifty (50) milliliters of urine. The Racing Commission veterinarian shall not split a specimen if less than fifty (50) milliliter of urine is collected from horses. In those instances, the Racing Commission veterinarian may submit the entire urine or blood specimen for testing or detain the horse for an adequate amount of time until the sample can be obtained. If there is not enough urine collected for a split sample as required by this subsection, then the results of tests performed by the primary testing laboratory shall be considered prima facie evidence of the condition of the horse.

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

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

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

26.5. 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.

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

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

26.8. The 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.

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

27.1. The results of all tests performed by the primary testing laboratory are confidential and shall only

be communicated to the Racing Commission steward, who shall notify, in a timely manner the trainer.

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

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

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

27.5. 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.

27.6. The owner or trainer of a horse who submits a specimen for testing to a split sample laboratory shall execute a hold harmless agreement for the split sample laboratory and an agreement that the results of the split sample laboratory can be introduced as evidence in any hearing. The agreements shall remain in the hands of the Racing Commission steward of the racetrack in which the positive result was reported.

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

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

28.2. No action shall be taken against the trainer or owner if the results of the split sample testing are negative or in the instance of quantitative levels of permitted medications, in the urine and/or blood where the confirmed levels are within the permitted levels.

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

28.4. 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.

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

29.1. In order for a split sample laboratory to be identified on the list of approved laboratories, it shall establish reasonable fees for split sample testing based on its actual cost of testing.

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

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

30.1. Split samples obtained from the horse shall be secured by the Racing Commission veterinarian and made available for further testing in accordance with the following procedures:

30.1.1. The 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;

30.1.2. A freezer for storage of split samples shall be opened only for depositing or removing split

samples, for inventory, or for checking the condition of samples; and

30.1.3. The 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.

30.2. 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. The request shall be made in writing and delivered to the stewards not later than 72 hours after the trainer of the horse receives written notice of the findings of the primary laboratory. The Racing Commission veterinarian shall ship any requested split samples within ~~seventy-two (72) hours~~ three business days of the request.

30.3. 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 the Racing Commission veterinarian constitutes a waiver of all rights to split sample testing. 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 Racing Commission steward and arrangements for payment satisfactory to the split sample laboratory. A split sample testing laboratory shall be a member in good standing of the Association of Official Racing Chemist and approved by the Racing Commission.

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

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

30.4.2. the sample number;

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

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

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

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

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

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

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

30.5. A 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.

30.6. 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 recommended by the Racing Commission. 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.

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

30.8. 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.

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

30.10. The owner, trainer or their designee shall not correspond with the split sample testing laboratory, once the sample has been shipped to the laboratory.

§178-1-31. Trainer responsibility.

31.1. The trainer is responsible for:

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

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

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

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

31.1.5. disclosure of the true and entire ownership of each horse in his or her care, custody or control. The owner and/or trainer shall immediately report any change in ownership to, and approved by, the stewards and recorded by the association's racing secretary;

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

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

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

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

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

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

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

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

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

31.1.15. notifying horse owners upon the revocation or suspension of his or her trainer's permit. Upon application by the owner, the stewards may approve the transfer of the owner's horses to the care of

another occupational permit holder trainer, and upon an approved transfer, the horses may be entered to race.

31.2. The trainer is the absolute insurer of and responsible for the condition of the horse entered in an official workout or a race, regardless of the acts of third parties. If the chemical or other analysis of saliva, urine samples, and/or other tests prove positive showing the presence of any narcotic, stimulant, depressant, local anesthetic, or any other drug or unauthorized medication, the trainer of the horse may be fined, suspended have his or her occupation permit revoked or be prohibited access to all grounds under the jurisdiction of the Racing Commission. 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 occupation permit revoked or be prohibited access to all grounds under the jurisdiction of the Racing Commission.

All moneys won by a horse found to have been administered to as described in this section shall be forfeited and redistributed.

§178-1-32. Camera and film patrol.

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

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

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

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

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

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

§178-1-33. Policing.

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

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

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

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

§178-1-34. Sanitation.

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

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

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

§178-1-35. Colors and equipment.

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

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

35.1.2. Stewards shall decide any dispute between claimants for the right of the particular racing colors.

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

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

35.3. Stewards or their designee may give permission during the current meeting for any change of equipment from that which a horse carried in his previous race.

35.4. The starter shall give permission to add blinkers to a horse's equipment or to discontinue the use of blinkers before being granted by the stewards.

35.5. The stewards shall give permission to use or discontinue the use of a tongue-tie. 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.

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

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

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

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

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

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

§178-1-36. Declarations and scratches.

36.1. No horse shall be considered to be scratched from a race until the trainer, or his or her deputized surrogate in writing notifies the association's racing secretary within the proscribed time period established by the association.

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

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

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

36.5. 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.

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

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

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

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

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

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

36.9. In all races with more than eight (8) horses, trainers may withdraw a horse to this number by the specified scratch or elimination time on the day of the race. This right is to be determined by lot when necessary. In all races involving the twin-trifecta and the tri-superfecta, no entry may be withdrawn that would reduce the starting field to less than ten (10) interests without permission of the stewards.

§178-1-37. Disciplinary Action.

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

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

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

37.4. An unpaid fine may be rescinded with the approval of the Racing Commission.

37.5. Violators of this rule are subject to be fined, suspended, and/or ejected from the association's grounds.

37.6. If any representative of the licensee or occupational permit holder is guilty of using profane,

indecent or vulgar language to any racing official, or has any explosives or incendiary device, firearm, or other deadly weapon in a vehicle under his or her control or in his or her possession, or any areas that are under his or her control, and/or otherwise disturbs the peace on any race track grounds, he or she may be fined, and/or suspended.

§178-1-38. Engagements and Transfer.

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

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

38.3. 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 subscription, entries or rights of entry were made prior to the partner's death.

38.4. 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 subject to the approval of the stewards when the personal representative of an estate, in writing, requests that the benefits of 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.

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

38.6. As long as the name of an owner is on the arrears list with the horsemen's bookkeeper, no engagements can be transferred or accepted by him or her. No horse can be entered by him or her or under their subscription until removed from the arrears list.

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

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

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

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

39.2. When a person is excluded from a racetrack or suspended, he or she 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.

39.3. The owner or trainer shall not register a horse for racing or be permitted to enter or start a horse in a race unless the horse is stabled on the grounds of the association conducting the meeting or at other stabling facilities. The owner or trainer may rotate horses if approved by the association's racing secretary. This rule shall not prohibit entry or nomination of a horse or horses in a handicap, stakes or allowance race if they are being transported in to participate in these specific races.

39.4. No person shall willfully enter, or cause to be entered, or start a horse in a race, when he or she

knows or believes the horse to be ineligible or disqualified.

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

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

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

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

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

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

39.11. A person not having an interest in a horse that is equal at least to the ownership interest of any other individual may not enter the horse in a race as the owner.

39.12. One or more of the owners may make joint subscriptions and entries. However, each of them is jointly and separately liable for all fees and forfeits.

39.13. When a horse is entered it must be clearly identified by stating its age, sex, name, color, names of its sire, and dam. If the registration certificate indicates the dam was covered by more than one (1) stallion, the names of all stallions shall be given in the order in which the stallion covered the mare.

39.14. 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 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.

39.15. The Racing Commission may refuse an entry of any person, or the transfer of any entry, with notice and the reason given.

39.16. The stewards may not allow a horse to start in any race unless it is duly registered and named with the registry office of The Jockey Club with the Certificate of Registration properly endorsed to the current owner on file with the association's racing secretary one-half (1/2)hour before post time of the first race. For good cause, the stewards may waive this requirement if the horse is otherwise properly identified.

39.17. If a horse's name is changed, the owner shall register its new name with The Jockey Club. The Racing Commission shall accept no entry until such time as The Jockey Club has issued a new Certificate of Registration.

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

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

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

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

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

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

39.24. If the Racing Commission 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.

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

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

39.26.1. is not in sound racing condition;

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

39.26.3. has been trachea-tubed;

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

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

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

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

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

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

39.29.2. Stake rules apply at all racetracks regardless of size. In a stake, futurity or other special event, any two (2) or more horses entered that are owned in whole or in part by the same owner or trained by the same trainer shall be given an equal draw according to the eligibility conditions of the race. These horses shall be coupled as set forth under subsection 10.15 of this rule.

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

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

39.32. The 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.

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

39.34. If the ownership of a horse is changed through claiming or transfers, the association's racing association shall deliver the original registration certificate to the new owner.

39.35. An Owner or trainer refusing to deliver any registration certificate, if reasonably available, shall be suspended until delivered.

39.36. The association's racing secretary shall immediately compile and conspicuously display all entries.

39.37. Alterations shall not be made in any entry after closing of entries, except correction of errors approved by the stewards.

39.38. Any horse, which has been removed from starting due to sickness or physical disability, is not eligible to start for a minimum of five (5) calendar days, exclusive of the day of the horse's removal. The entry shall be accompanied by a written certificate of fitness from the Racing Commission veterinarian and be approved by the stewards.

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

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

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

39.42. The association's racing secretary shall not accept an entry from a husband or wife while either is disqualified from racing. For the purpose of this rule, a husband and wife shall be considered as one, unless they are legally separated and evidence of the separation is on file with the Racing Commission.

§178-1-40. Also Eligible.

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

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

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

elimination from the eligible list the first day.

§178-1-41. Preferred List.

41.1. The association's racing secretary will post or display each afternoon a copy of the preferred list. Any claim of error shall be made by scratch or elimination time of the following day. The stewards shall recognize any claim of error that is made within the prescribed time.

41.2. In entering horses on the preferred list, the owner and/or trainer shall make a claim of preference at time of entry and noted on the entry. If the claim is not noted on the entry the preference shall be foregone with no claim of error being considered by the stewards.

§178-1-42. Penalties and Allowances.

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

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

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

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

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

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

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

42.8. Races described to run under Scale of Weights or Weight for Age shall be run under the weights as provided for in the scale of weights are set forth in table 62.1 of this rule.

42.9. The association's racing secretary may schedule races either above or below scale as he or she determines provided that the jockeys weight complies with the minimum weight rule.

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

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

43.2. If a dispute arises between a licensee and an occupational permit holder, at any licensed racetrack and if the occupational permit holder or licensee desires to terminate his or her activities under an existing license or occupational permit, then the licensee or occupational permit holder shall give seven (7) days' notice, in writing, of his or her intention to terminate all activities under his or her existing license or

occupational permit to the Racing Commission. The Racing Commission may, upon request from either party, within the seven (7) day period, conduct hearings in an attempt to arbitrate and settle any disputes by and between the parties. In the event, either the licensee or occupational permit holder does not comply with this provision of this section the Racing Commission may suspend the licensee and/or occupational permit holder. All hearings shall be governed by West Virginia Procedural Regulations, 178 CSR 4 (1991), Dispute Resolution Procedures.

43.3. Applicants for occupational permits may be called upon to submit satisfactory evidence of financial responsibility. After the occupational permit has been issued, the applicant shall maintain a record of financial responsibility during the period for which an occupational permit is issued.

43.4. The Racing Commission may in its discretion refuse to issue or renew an occupational permit, or may in its discretion suspend or revoke an occupational permit issued pursuant to this rule;

43.4.1. if the Racing Commission finds that the applicant, or any person who is an agent, employee or associate of the applicant has been convicted of a crime in any jurisdiction. In considering an applicant for an occupational permit, a current occupational permit holder who has been convicted of a criminal act involving moral turpitude within the ten years prior to the date of application, or a former occupational permit holder who seeks reinstatement of his or her permit who has been convicted of a criminal act involving moral turpitude within the ten years prior to the date of application, the Racing Commission may consider the following: (i) the nature and date of occurrence of the offense; (ii) whether the offense was related to the racing industry, gambling, pari-mutuel wagering, racetrack video lottery, or illegal use of drugs; (iii) the criminal record of the applicant or permit holder; (iv) whether the applicant or permit holder has successfully completed all conditions of probation, discharge from parole supervision, expiration of sentence and/or made restitution to any victims; (v) if the applicant or permit holder has successfully completed all conditions of probation, discharge from parole supervision, or any applicable sentence has since expired, the amount of time that has passed from the date of such event and (vi) any other factor the Racing Commission deems relevant to its inquiry ; or

43.4.2. is or has been associating with any person who has or persons who have been convicted of a crime or crimes in any jurisdiction; or

43.4.3. is consorting with or has consorted or associated with bookmakers, touts or persons of similar pursuits; or

43.4.4. has himself or herself engaged in similar pursuits; or

43.4.5. is financially irresponsible; or

43.4.6. has been guilty of or attempted any fraud or misrepresentation in connection with racing, breeding or otherwise; and

43.4.7. has violated or attempted to violate any law with respect to racing in any jurisdiction, and any rule, or order of the Racing Commission, or adopted by the Racing Commission, or has been guilty of or engaged in similar, related or like practice.

43.5. Applicants for occupational permits shall file with the Racing Commission license clerk in the Racing Commission office. The applicant shall submit his or her application to the stewards who shall issue the permit, or hold the application for further investigation, or refer it to the Racing Commission for final action. All stewards shall review and sign all occupational permit applications.

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

43.7. The fees for occupational permits issued effective for calendar year 2001 and thereafter are set forth in table 43.7 of this rule.

43.8. A person who is suspended, or whose occupational permit is revoked, or to whom an occupational

permit is denied by any racing board or commission shall apply to and be reinstated by the Board or Commission of the state in which the original ruling was made before he or she is eligible to hold an occupational permit in any capacity issued by the Racing Commission.

43.9. All occupational permit holders shall visibly display their card at all times in restricted areas and are responsible for its safekeeping. No occupational permit is transferable. The Racing Commission shall not issue duplicate cards except upon payment of a fee of five dollars ($5.00).

43.10. The Racing Commission may suspend and/or fine any occupational permit holder who allows another to use his or her occupational permit card or badge or any person who uses the occupational permit card or badge of another person for the purpose of transferring any of the benefits pertaining to the card or badge.

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

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

43.13. Every occupational permit is for one (1) year and expires on December 31 of each year.

43.14. The Racing Commission may deny or revoke an occupational permit of any person who has been refused an occupational permit by any other racing jurisdiction when the racing jurisdiction of each other state extends to the Racing Commission of West Virginia reciprocal courtesy to maintain the disciplinary control. The Racing Commission may deny or revoke any occupational permit when the holder has violated this rule and rules of the Racing Commission or has falsified his or her application for the occupational permit.

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

43.16. The Racing Commission shall not grant an occupational permit to anyone under sixteen (16) years of age.

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

43.18. Any person under suspension by any racing jurisdiction in any country remains under suspension in this State until he or she is reinstated by the original racing jurisdiction.

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

§178-1-44. Tip Sheet Vendor

44.1. An application for an occupational permit as a tip sheet vendor shall meet the following:

44.1.1. Any family, corporation, partnership, or sole proprietorship, or any other business entity or any employees thereof may publish no more than one (1) version of a tip sheet for use at any one (1) track on any given race day. There is no limit on the number of copies of the one (1) version that may be produced and sold.

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

44.1.3. All tip sheet vendor applicants shall meet the conditions set forth in this section to the full satisfaction of the Racing Commission steward.

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

45.1. Each jockey and apprentice jockey shall obtain an occupational permit from the Racing Commission, and the Racing Commission shall not issue an occupational permit to any jockey or apprentice jockey under sixteen (16) years of age.

45.2. Stewards may grant a temporary occupational permit for the riding of ten (10) or more races. If approved after having consulted with the representatives of the jockeys, the stewards may replace the temporary occupational permit with an occupational permit.

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

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

45.5. Male or female jockeys who are husband and wife may ride separate entries in the same race.

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

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

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

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

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

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

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

45.13. A jockey shall pass an annual physical examination that is administered by a physician of the

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

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

45.15. The owner of the horse shall pay the jockeys' riding fees to the horsemen's bookkeeper.

45.15.1. If any owner or trainer engages two (2) or more jockeys for the same race, he or she shall pay the losing fee for each engaged jockey not riding in the race as well as the proper fee to the jockey who does ride.

45.16. A jockey's fee shall be considered earned when the 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 his or her horse when injury to the horse or rider is not involved. Any conditions or considerations not covered by this subsection are at the discretion of the stewards.

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

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

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

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

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

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

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

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

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

45.21. A forfeiture shall be paid by the jockey himself or herself and any other person paying the forfeiture is subject to fine or suspension.

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

45.23. 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.

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

specified in the contracts.

45.25. Approved jockeys' fees are set forth in table 45.25 of this rule)

45.26. 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 the following subsection specific relating to apprentices.

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

45.28. The Racing Commission shall keep the original apprentice jockey contract in full force and effect throughout its contract period. The Racing Commission shall attach any and all amendments to that contract to the copies in possession of the parties with a copy of the amendments sent to the Racing Commission where the original contract is filed.

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

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

45.31. 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.

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

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

45.33.1. Any person sixteen (16) years of age or older, and who has not previously been 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. He or she may also obligate himself or herself, with the consent of a parent or guardian if said person is not of legal age, by contract to an owner or trainer for a term of not less than three (3) nor more than five (5) years (subject to written extension if made for less than five (5) years). The contract or certificate shall be subject to the approval and jurisdiction of the Racing Commission. A duly certified apprentice jockey may claim the following weight allowances in all overnight races, except stakes and handicaps:

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

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

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

45.34. If after one (1) year from the date of the fifth winning mount, the apprentice jockey has not ridden forty (40) winners, the applicable weight allowance shall continue for one more year or until the fortieth (40)

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

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

45.36. The holder of the contract at the time the apprentice rides his or her first winner is considered the original contract employer.

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

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

45.35.1. physical disablement or illness;

45.35.2. military service;

45.35.3. attendance in an institution of secondary or higher education;

45.35.4. restriction on racing; or

45.35.5. other valid reasons.

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

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

45.37.1. An apprentice may petition one of the jurisdictions in which he or she is issued an occupational permit and ride for an extension of the time for claiming apprentice weight allowances. The apprentice is bound by the decision of the jurisdiction that is petitioned.

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

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

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

§178-1-46. Jockey Agents.

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

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

46.3. The owner, trainer and jockey or his or her agent shall affix signatures to the engagement slips.

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

occupational permit.

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

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

46.7. Jockey agents are not allowed in the paddock or on the racetrack at any time, except by special permission from the stewards.

46.8. A jockey agent shall not give to anyone, directly or indirectly, any information or advice pertaining to a race or engage in the practice commonly known as touting for the purpose of influencing any person, in the making of a wager on the result of any race.

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

46.10. Jockey agents shall be called upon to explain rival claims for any mount or for any rider. A jockey agent's inability to satisfy the stewards that the rival claim arose through honest and bona fide error is considered a falsification of records.

46.11. The stewards shall decide conflicting claims for the services of a jockey and first call has priority.

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

46.13. A jockey agent may not hold an occupational permit in any other capacity as long as he or she holds an agent's occupational permit unless the Racing Commission approves the additional occupational permit. A jockey agent's 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.

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

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

§178-1-47. Naming of Riders.

47.1. Owners and/or trainers shall name their jockeys no later than scratch time of the day of the race.

47.2. Any subsequent change of a jockey must be sanctioned by the stewards and shall be promptly and publicly displayed and announced.

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

§178-1-48. Blacksmiths.

48.1. An applicant for a Blacksmith occupational permit who has not been previously issued an occupational permit in any State shall have a written statement of two (2) reputable persons to the effect that

the applicant is personally known to them and stating that he or she is a person of good reputation and capable of performance of the vocation he or she seeks to follow. A Board consisting of a veterinarian, trainer and a blacksmith holding an occupational permit appointed by the Board of Stewards shall test the applicant's abilities. The applicant to be tested as follows:

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

48.1.2. shoe a horse with racing plates.

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

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

§178-1-49. Owners - Trainers.

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

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

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

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

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

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

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

§178-1-50. Authorized agents.

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

50.2. Applicants shall file an application for an occupational permit for each owner represented.

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

50.4. A power of attorney instrument submitted by an owner or trainer shall be attached to the regular application form and filed permanently with the Racing Commission's license clerk.

50.5. An owner wishing to make changes to the written instrument shall do so in writing and file with the Racing Commission.

50.6. The term of the occupational permit expires December 31 of each year, unless the agent's appointment is revoked by the owner of the occupational permit or revoked by the Racing Commission prior to the expiration date.

50.7. An owner's cancellation of an authorized agent shall be in writing, sworn to before a notary public, and filed with the Racing Commission.

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

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

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

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

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

§178-1-52. Partnerships.

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

52.2. A partnership shall appoint an authorized agent to represent them in all matters, and only he or she shall withdraw money or sign claims for that partnership. The application shall be notarized in the appointment of an authorized agent and all members of a partnership shall sign.

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

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

52.3.2. the relative proportions of the interests;

52.3.3. to whom the winnings are payable;

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

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

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

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

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

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

52.7. To be effective, the partnership or authorized agent shall report in writing an alteration in a recorded partnership's registration to the Racing Commission and be signed by all partners.

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

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

be considered a single entity.

§178-1-53. Stable Names.

53.1. The owner and/or trainer shall clear all stable names with the office of the Association of Racing Commissioners, International, Inc. and shall be duly registered with the Racing Commission. A stable name shall be plainly distinguishable from that of another duly registered stable name when appearing on the program.

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

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

53.1.3. Anyone making changes in identities shall report immediately to and be approved by the Racing Commission.

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

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

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

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

53.1.8. A trainer, who holds an occupational permit as an owner or part owner, may use a stable name as owner or part owner, provided that he or she is the trainer for the stable name owner. However, a trainer may not obtain an occupational permit as a trainer other than in his or her legal name.

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

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

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

§178-1-54. Trainers.

54.1. Each trainer shall obtain an occupational permit from the Racing Commission and list on the occupational permit application all the names of owners or part owners of all horses trained by him or her.

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

54.3. A trainer holding an occupational permit may represent the owner in the matter of entries, declarations, and the employment of jockeys. The trainer may not withdraw any money from the horsemen§s bookkeeper, either in his or her own name or that of an owner, nor may he or she contract obligations against

the account of any owner or part owner unless he or she is the authorized agent of the owner or part owner and has an occupational permit issued by the Racing Commission.

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

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

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

54.7. Each trainer shall register with the association's racing secretary all horses under his or her care. The trainer shall list each horse by name, age, sex, breeding, and ownership. Any horse stabled on the grounds of the association, and not listed by a trainer occupying a stall not assigned to him or her may be cause for disciplinary action.

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

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

54.10. A trainer shall not have in his or her charge or under his or her supervision any horse owned, in whole or in part, by a disqualified person.

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

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

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

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

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

§178-1-55. Claiming.

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

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

55.1.1.1. a financial statement;

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

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

55.1.2. This certificate is valid for the remainder of the calendar year.

55.2. No one may claim more than one horse out of any one race and/or submit more than one claim for the same horse.

55.2.1. A trainer, even though he or she is an owner and qualified under the rules to claim, may 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 act inadvertently occurs, the Racing Commission shall declare void the claim made by the trainer.

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

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

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

55.3. Any horse claimed shall not be sold or transferred, wholly or in part thereof, to anyone for 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 in any other racing jurisdiction for a period of sixty (60) days.

55.4. The claiming price of each horse in a claiming race shall be printed on the program, and all claims for that horse shall be for the amount designated, plus sales tax. If more than one claim is filed for the same horse, the disposition of the horse shall be determined by lot under the direction of one or more of the stewards or a person deputized to act for the stewards.

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

55.6. All claims shall be deposited in the claiming box at least ten (10) minutes before post time of the race with respect to which the claim is made, and no official of that association shall give any information as to the filing of claims in the claiming box until after the race has been run. The stewards or their designee shall pass upon all claims.

55.7. The original owner shall not deliver a horse claimed to the successful claimant until the stewards give authorization. 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.

55.8. Any person making a claim for a horse in any claiming race shall sign an affidavit which shall be part of the claim blank, certifying that he or she is claiming the horse for his or her own account or as an

authorized agent and not for any other person. Any person making an affidavit falsely shall be immediately suspended and his or her case referred to the Racing Commission for further action.

55.9. No person shall refuse to deliver to the person or persons entitled to the horse under this rule a horse claimed from a claiming race. The stewards shall prevent the horse claimed from racing along with all other horses owned or trained by that person until delivery is made.

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

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

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

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

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

55.15. The stewards shall decide when this rule has violated. They may, at their discretion, declare any claim void.

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

56.1. The stewards shall cancel any race program that is abandoned in whole or in part.

56.2. The stewards shall cancel or postpone any affected stakes race that is abandoned in whole or in part.

56.3. The stewards shall refund all subscriptions and fees paid in connection with that race, if a stakes race is canceled.

§178-1-57. Dead Heats.

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

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

57.3. If a dead heat is for first place, each horse shall be considered a winner of the amount received according to subsection 57.2 of this section.

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

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

57.6. In case of a dead heat for win, each of the horses involved is a winner for the purpose of this section.

§178-1-58. Paddock to Starting Gate.

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

58.2. Horses shall be in the paddock at least twenty (20) minutes before post time unless otherwise authorized by the stewards.

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

58.4. The post parade shall not exceed twelve 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.

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

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

58.7. If a jockey is thrown from the horse on the way from the paddock to the starting gate, 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.

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

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

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

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

§178-1-59. Starting Gate to Finish.

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

59.2. If a horse leaves the racing strip after the Start, the stewards shall disqualify the horse.

59.3. When clear, a horse may be taken to any part of the racing strip, but no horse shall cross or weave

in front of other horses in such a way as to impede them or constitute or cause interference.

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

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

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

59.7. All jockeys shall ride past the finish line in every race, and every horse must carry their assigned weight from starting gate to finish.

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

59.8. If two (2) horses run in one (1) interest in any race, each shall give its best effort. The practice of colluding to win with one or the other of the horses is prohibited.

59.9. If a horse, during the running of a race, becomes crippled or otherwise obviously unable to finish, (broken bone or profuse bleeding or any other equally disabling condition) the horse shall be dismounted, unsaddled, and removed from the racing strip without passing the grandstand and furthermore the horse shall not under any circumstances be destroyed on the racing strip or in the presence of the public unless authorized by the Racing Commission veterinarian or his or her designee.

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

59.9.2. If the Racing Commission veterinarian determines that a horse is to be euthanized, the procedure shall be done by the Racing Commission veterinarian through the use of a needle.

59.9.3. A jockey shall not be required to weigh in under this section.

59.10. During the running of the racing performance, the stewards shall exclude all unauthorized persons from the racing strip.

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

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

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

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

60.4. No person shall offer or receive money or any other benefit for scratching or eliminating a horse from a race or for not entering a horse in a race.

60.5. No person shall conspire with any other person for the commission of a corrupt or fraudulent act or practice, or connive with any other person in any corrupt or fraudulent practice in relation to racing nor

commit an act on his or her own account.

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

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

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

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

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

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

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

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

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

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

60.15. No person who is of ill repute or a fugitive from justice, or whose conduct at a race track in West Virginia, or elsewhere is or has been improper, obnoxious, unbecoming or detrimental to the best interest of racing shall enter or remain upon the premises of any licensed association conducting a race meeting under the jurisdiction of this Racing Commission. The stewards shall fine, suspend or eject the person from the racetrack.

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

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

60.18. Any horse that has been nerved at or above the fetlock (high nerved) is prohibited from running in this state. All horses that have been nerved below the fetlock (low nerved) shall be so designated on The Jockey Club foal certificate, and this information shall be published on the bulletin board in the association's racing secretary's office. It is the responsibility of the trainer to notify the Racing Commission veterinarian of the horse's nerved status prior to the time that the horse is entered and provide verification from the practicing veterinarian who performed the neurectomy, if the foal papers have not been previously stamped by an official at another race track.

60.19. No occupational permit holder or other person under the jurisdiction of the Racing Commission

shall subject any horse under his or her control, custody, or supervision to be subjected to or to incur any form of cruelty, mistreatment, neglect or abuse. Nor shall any permit holder allow any noxious substance to be administered to or deprive any horse of necessary care, substance, shelter or veterinary care.

§178-1-61. Objections and Protests.

61.1. The stewards shall take cognizance of foul riding and may entertain reports from other racing officials of the meeting regardless of whether or not formal complaint is made. They shall not consider a complaint, which comes from any person other than the jockey, trainer or owner of the horse interfered with.

61.2. If a horse is disqualified for a foul under this rule, the stewards may disqualify any other horse in the race owned wholly or in part by the same interest.

61.3. A protest, except a protest involving fraud may be filed only by the owner (or his or her authorized agent) trainer, or jockey of a horse engaged in the race in which the protest is made or by a racing official of the meeting.

61.4. Any person may make a protest involving fraud.

61.5. If a claimed horse has had a posterior digital (heel nerve) neurectomy and has not complied with requirements in Subsection 53.19 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 veterinarian holding an occupational permit and the Racing Commission veterinarian.

61.6. A protest, except for an allegation relating to incidents in the running of the race, shall be made in writing, signed by the complainant and filed with the stewards before post time of the race in question.

61.7. To merit consideration, any protest over the status of an alleged maiden horse shall be made in writing, signed by the complainant, and filed with the stewards before the scheduled post time for the race in which the protested maiden horse is scheduled to participate.

61.8. Anyone who protests against a horse engaged in a race and who files 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.

61.9. To merit consideration, a protest against the scheduled distance of a race shall be made at least thirty (30) minutes before post time for that race. However, nothing in this rule shall affect the rule pertaining to races run at a wrong distance as compared with the official program.

61.10. To merit consideration, a protest against a horse based on an incident in a race shall be made to the stewards before the order of finish -for that race has been made official.

61.11. If a jockey wishes to protest 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 he or she shall notify the outrider that is equipped with a two-way radio for communication with the stewards, that he or she wishes to claim foul or put a "hold" on the race. The jockey may either claim foul or put the race on hold. The jockey shall then proceed to the clerk of scales and contact the stewards upon dismounting.

61.12. Before the consideration for a protest, the stewards may demand a deposit of twenty-five dollars ($25.00) to be made with the horsemen's bookkeeper. This deposit shall be applied to the costs and expenses. Any excess shall be refunded unless the protest is found to be frivolous, in which case the deposit may be assessed as a fine or payment toward a part of a fine.

61.13. A person or persons lodging a protest shall pay all costs and expenses incurred in determining the objection. However, if his or her objection is upheld, the offender shall pay the cost.

61.14. Pending the determination of a protest, any money or prize won by a protested horse, or any other

money affected by the outcome of the protest shall be paid to and held by the horsemen's bookkeeper until the protest is resolved.

61.15. A protest may not be withdrawn without permission of the stewards.

61.16. No person shall make a frivolous protest.

61.17. The stewards shall keep a record of all protests and complaints and any action taken on the protests and complaints and report both to the Racing Commission daily.

61.18. Unless otherwise provided in this rule, all protests shall be filed in writing with the stewards within twenty-four (24) hours after the occurrence of the event upon which the protest is based.

§178-1-62. Scale of Weights for Age.

62.1. The following is the scale of weights for age and shall be carried when not otherwise specified in the conditions of the races: The scale of weights are contained in Table 62.1 of this rule

62.2. In races of intermediate lengths, the weights for the shorter distance are carried.

62.3. In all races except handicaps and races in which the conditions expressly state to the contrary, fillies two (2) years old are allowed three (3) pounds, and fillies and mares three (3) years old and upward are allowed five (5) pounds before the 1st of September and three (3) pounds thereafter.

62.4. Minimum weight in all overnight races for two (2) year olds, for three (3) year olds, or for four (4) year olds and upward shall be one hundred ten (110) pounds subject to sex and apprentice allowances. This subsection shall not apply to handicaps or to races written for three (3) year olds and upward.

§178-1-63. Weighing Out.

63.1. The clerk of the scales shall weigh out the specified jockeys for their 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.

63.2. No jockey may carry overweight in excess of two (2) pounds without permission of the owner or trainer, and under no circumstances, shall the overweight exceed seven (7) pounds.

63.3. If the overweight is more than two (2) pounds in excess of the weight the horse is to carry, with the owner or trainer consenting, the jockey shall declare the amount of overweight to the clerk of the scales at the time appointed. The clerk shall have the overweight displayed immediately on the notice board or announce publicly. The judges shall report to the stewards any failure on the part of any jockey to comply with this subsection.

63.4. If an underweight in excess of two (2) pounds is discovered after wagering has commenced and before the actual start of the race, the horse shall be returned to the paddock and the weight corrected.

63.5. None of the following items should be included in a jockey's weight: Whip, head number, bridle, bit, reins, blinkers, number cloth, safety helmet, and safety vest.

63.6. The association shall provide the only attendants who may assist jockeys in weighing out or at any other time while in the performance of their duties. The attendants shall be approved by the Racing Commission and issued an occupational permit.

§178-1-64. Weighing in.

64.1. After a race has been run and after the jockey has pulled up the horse he or she has ridden, the jockey shall ride promptly to the unsaddling area and dismount, but not before having obtained permission

from the stewards to present himself or herself to the clerk of the scales to be weighed in.

64.2. If a jockey is prevented from riding his or her horse to the unsaddling area because of an accident or of illness to himself or herself or his or her horse, he or she may walk or be carried to the scales or he or she may be excused by the stewards from weighing in. In no case shall the jockey ride a horse bleeding profusely or crippled past the public grandstands, nor shall he or she attempt to lead him or have him led past the public stands.

64.3. Except by permission of the stewards, every jockey shall, upon returning to the unsaddling area unsaddle the horse he or she has ridden. No person shall touch the horse except by its bridle.

64.4. No person shall assist a jockey in removing from his or her horse the equipment that is to be included in the jockey weight except by permission of the stewards.

64.5. No person shall throw any covering over any horse at the place of dismounting until the jockey has removed the equipment that is to be included in his or her weight.

64.6. No jockey shall, before weighing in, willfully touch any person or thing, other than the equipment that is to be included in his or her weight.

64.7. Each jockey shall, in weighing in, carry over the scales all pieces of equipment with which he or she weighed out. Thereafter, he or she may hand it to his or her attendant.

64.8. Each jockey shall weigh in at the same weight as that at which he or she weighed out, and if less by more than two (2) pounds, his or her horse shall be disqualified.

64.9. No jockey shall weigh in at more than two (2) pounds over the weight at which he or she weighed out, except as the weight may have been affected by the elements.

§178-1-65. Workout.

65.1. Every Racing Commission occupational permit holder exercising a horse shall, upon request of an official timer, correctly state the distance over which that horse is to be worked, and the point on the racing strip, where it is intending to start the workout. He or she must identify the horse when requested.

65.2. Anyone wishing to exercise a horse on the racing strip between races shall obtain permission from the stewards and track superintendent.

65.3. When a horse is being warmed up or exercised, a public announcement shall be made giving the name of the horse and explaining its presence on the racing strip.

65.4. Any horse, which has not raced for a period of sixty (60) days, shall have one (1) published workout, or a workout certified by the official clocker to be announced over the public address system prior to the horse starting.

§178-1-66. Medication.

66.1. A trainer shall prevent the administration of any drug or medication or other prohibited substance that may cause violation of this rule.

66.2. The blocking of horses' legs or ankles is prohibited. The blocking of the nerves in a horse's leg or ankle by hypodermic injection or the use on a horse of so-called local anesthetics is prohibited at any time on a day when the horse is entered to run in a race.

66.3. Possession of certain drugs, instruments, appliances are prohibited.

66.3.1. No person, except licensed veterinarians, shall have in his or her possession within the association's grounds where horses are kept that is eligible to race the following: any drug which might affect the speed or actions of a horse, or hypodermic syringes or hypodermic needles or similar instruments which

may be used for injection, or batteries, or other appliance which might affect the speed or actions of a horse.

66.3.2. Veterinarians practicing veterinary medicine on any racetrack where a race meeting is in progress or pending shall use one (1) time disposable needles and shall dispose of them in an approved manner.

66.3.3. Sterile equipment shall be used for collecting samples.

66.4. Subject to the approval of the stewards, the Racing Commission veterinarian shall give permission for the use of any special or medicated type of bandage to be applied to the leg of a horse that is entered to run in a race on the day of the race. The Racing Commission veterinarian shall keep a record of all details of the requests.

66.5. No horse participating in a race shall carry in its body any drug substance, its metabolites, or analog, which are foreign to the natural horse except as provided, by this rule.

66.5.1. Phenylbutazone and oxyphenylbutazone are to be administered in such dosage amounts that the test sample shall not contain more than 5 micrograms of the drug substance, its metabolites and analog per milliliter of blood plasma or more than 165 micrograms of the drug substance, its metabolites and analog per milliliter of urine.

66.5.2. Phenylbutazone and oxyphenylbutazone may be administered after the horse is entered to race, but in no event later than twenty-four (24) hours before post time of the race in which the horse is entered.

66.5.3. A horse observed to be hemorrhaging from the lungs through one or both nostrils and before leaving the track proper; or from the lung that has been verified by endoscopic examination immediately following the running of a race or workout, by the state veterinarian or the designated veterinarian, shall be placed on a bleeder list and is eligible to be treated on race day to prevent bleeding during its race with the medication furosemide (lasix) and/or adjunct medications which shall include only Aminocaproic Acid, Tranexamic acide, and Carbazochrome.

66.5.4. Any horse that is to be treated with furosemide (lasix) and/or adjunct medications as defined by this Rule shall be treated by his or her regular veterinarian no later than four (4) hours before post time, in amounts not to exceed 500 mg (10 ml), by the intravenous route only.

66.5.5. Any person breaching the provisions of this section is subject to a fine, suspension, or revocation of the occupational permit.

66.5.6. The Racing Commission may issue orders governing medication procedures and related instructions. These orders may amplify the provisions of this section.

66.6. If the stewards find any masking or interfering agent in the post race urine, the stewards shall impose punishment and take other action as they may consider proper under the rules.

66.6.1. If the analysis of any saliva, urine or other sample taken from any horse shows the presence of any substance which is the result of any oral, topical or injected medication that has not been administered in accordance with this rule, the trainer and any other person shown to have had the care or attendance of the horse may be fined or his or her occupational permit suspended, or both.

66.6.2. Notwithstanding anything to the contrary in this rule, furosemide (lasix) and/or any adjunct medication as defined by this Rule, may be administered to any two (2) year old horse. If a horse is to receive one or more adjunct medications, the trainer of the horse shall declare the use of each adjunct medication at the time of entry and the veterinarian who administers an adjunct medication shall report each adjunct medication administered in the same form used to report the administration of furosemide (lasix).

66.6.3. Phenylbutazone or any derivative or compound thereof may be administered to any two (2) year old horse.

66.7. Experimental drugs awaiting FDA approval and drugs not authorized for use in the United States shall not be used or possessed on the grounds of any licensed racing association or possessed by any occupational permit holder at any time or be present on the grounds of any approved stabling facility. The possession of blood-doping agents such as epogen, procrit, and aranesp and similar agents is forbidden. Any person violating this provision is subject to fine, suspension or revocation of his or her occupational permit.

§178-1-67. Vendors of Horse Feed or Medicine.

67.1. Any vendor of horse feed or medicines of any kind or description shall file with the Racing Commission veterinarian a list of products which he or she proposes to sell or deliver on the grounds of a race track and shall further submit for approval to the Racing Commission veterinarian any new preparation to be offered for sale. The stewards shall deny the privileges of the stable area to any vendor who offers any unapproved or unlisted preparation.

§178-1-68. Appeal and Review.

68.1. A majority of the stewards at any horse race meeting may suspend an occupational permit and the suspension is effective immediately. The stewards shall, as soon as thereafter practicable, make and enter an order to that effect and serve a copy thereon on the occupational permit holder either personally or by certified mail, with return receipt requested. The order shall state the grounds for the suspension.

68.2. Any person or persons penalized or disciplined under the laws of the State of West Virginia or under this rule may request a hearing before the Racing Commission. They shall make a written request for a hearing to the Racing Commission at its office in Charleston within twenty (20) days after receipt of the written order or suspension or revocation.

68.2.1. The request for hearing shall be filed by the person making it and it must set forth his or her reason for believing he or she is entitled to a hearing.

68.2.2. The request shall set forth if the petitioner desires a court reporter for transcribing of any testimony.

68.2.3. Any person who appeals shall pay security for costs in the amount of one hundred dollars ($100.00). This money shall accompany the appeal. In the event the Racing Commission considers this security for costs insufficient as to amount, the person shall pay the additional security for cost specified by the Racing Commission and shall deposit at the Racing Commission office within ten (10) days after notification.

68.3. An appeal from a decision of a racing official to the Racing Commission shall not affect the decision until the Racing Commission has acted upon the appeal.

68.4. Upon receipt of the written demand for the hearing, in accordance with subsection 68.2. of this section, a time and place for the hearing not less than ten (10) nor more than thirty (30) days thereafter shall be set by the Racing Commission. Any scheduled hearing may be continued by the Racing Commission upon its own motion or for good cause shown by the person demanding the hearing.

68.5. Any person making an application for a hearing may be heard in person or by counsel, and if the person so desires, with the approval of the Racing Commission, the person may submit his or her case in writing.

68.6. All complaints and requests to the Racing Commission shall be in writing and all papers filed with the Racing Commission are the property of the Racing Commission.

§178-1-69. Auditors of Pari-Mutuel.

69.1. A director of audits and auditors of pari-mutuel wagering shall be appointed annually by the Racing Commission and shall be compensated by the Racing Commission. Their duties shall be determined from time to time by the Racing Commission and the auditors of pari-mutuel are subject to removal at any time by the Racing Commission.

69.2. The director of audits, and any other auditors employed by the Racing Commission, shall be certified public accountants or experienced public accountants. They shall have free access to the space or enclosure where the pari-mutuel system of wagering is conducted or calculated at any horse race meeting for the purpose of ascertaining whether or not the licensee is deducting and retaining only a pari-mutuel commission as provided in the current West Virginia Code, and is otherwise complying with the other provisions of the West Virginia Code relating to the pari-mutuel system. They shall also, for the same purposes only, have full and free access to all records and papers pertaining to the pari-mutuel system of wagering and shall report to the Racing Commission, in writing under oath, whether or not the licensee has deducted and retained any pari-mutuel commission in excess of that permitted under the West Virginia Code or has otherwise failed to comply with the provisions of those sections of the Code pertaining to the pari-mutuel system.

69.3. The auditors of pari-mutuel shall be afforded every facility for performing all the duties that may be assigned to him or her by the Racing Commission, including the following:

69.3.1. Every association licensed by the Racing Commission shall furnish the Racing Commission copies of its first payroll and any other that might be requested, both pari-mutuel and operative covering all employees performing services during any race meeting.

69.3.2. Copies of all pari-mutuel work sheets are to be turned over to the auditor of pari-mutuels immediately after each race.

69.3.3. At the end of each race day, 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-mutuels. Also, the association shall give the auditor of pari-mutuels copies of the consolidated report, and a report of pari-mutuel tickets paid.

69.3.4. At the end of each day, every signed complaint made by any customer, with reference to transactions with pari-mutuel clerks shall be reported on printed complaint forms and furnished to the auditor of pari-mutuels the next day.

69.3.5. A totalizer report shall be kept available by the manager of the money room of all errors made by the pari-mutuel clerks, commonly called Shorts or Overs. The reports shall detail the name of the seller or cashier, and his or her working place and the amount involved. At the end of each meet this report is to be given to the auditor of pari-mutuels for filing with the daily records enumerated in divisions 69.3.2, 69.3.3 and 69.3.4 of this subsection.

69.3.6. All moneys held by any licensee for the payment of outstanding and unredeemed pari-mutuel tickets, if not claimed within ninety (90) days after the close of the horse race meeting in connection with which the tickets were issued, shall be turned over by the licensee to the Racing Commission within fifteen (15) days after the expiration of the ninety (90) day period. The licensee shall give any information requested by the Racing Commission concerning outstanding and unredeemed tickets including, the out's ledger enumerating all outstanding pari-mutuel tickets at the end of the ninety (90) day period. In addition, a statement is to be prepared to accompany the ledger setting forth the dollar amount of the redeemed tickets in the ninety (90) day period. In addition, a statement is to accompany the ledger setting forth the quantity and amount of each denomination redeemed during the ninety (90) day period. The redeemed amount is to be subtracted from the out's balance which existed at the close of the meeting with the remaining balance to be included in the remittance of the association in settlement of the "out's" account for the meeting.

69.3.7. Each association shall provide a work area for the exclusive use of the auditor of pari-mutuels that is subject to the approval of the Racing Commission. This work area shall:

69.3.7.1. be located within or adjacent to the totalizator room with desk and chair facilities;

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

69.3.7.3. include space for locking file cabinets within the work area or other proper storage

facilities to be supplied by the association;

69.3.7.4. include an audio listening device for the public address system being used by the association for the address system to be heard intelligibly in the work area; and

69.3.7.5. include power outlets to operate electronic equipment.

69.3.8. All pari-mutuel tickets purging sessions shall occur only after a two (2) week prior notice in writing is given to the Racing Commission of the sessions. Further, the actual purging shall occur in the presence of a totalizator representative, an association representative and representative of the Racing Commission.

69.3.9. Cashed pari-mutuel tickets and computer printouts:

69.3.9.1. No person shall have access to cashed pari-mutuel tickets and computer printouts, unless authorized by the Racing Commission.

69.3.9.2. Cashed pari-mutuel tickets and all computer print-out sheets shall be secured in a facility where fire protection devices are installed and operable.

69.3.9.3. Cashed pari-mutuel tickets and computer print-out sheets storage shall be secured by a locking system. Access to the locked storage facilities is the responsibility of the mutuel manager. The facilities shall be locked at all times except when access is needed by the mutuel manager or his or her designee and the Racing Commission.

§178-1-70. State Security Officer.

70.1. The Racing Commission security officer shall work in conjunction with the Racing Commission license clerk to determine that all owners, trainers, grooms, jockeys, jockey agents, etc., have a West Virginia occupational permit. The Racing Commission security officer shall work in the Racing Commission license clerk's office during the morning working hours as needed. The Racing Commission security officer shall make a daily review of the program to verify that all persons listed on the program hold a West Virginia occupational permit and if there is any unlicensed personnel to take action to insure immediate issuance of a West Virginia occupational permit.

70.2. The Racing Commission security officer shall make a daily inspection of the barn area during morning working hours to determine if proper security measures are in effect and to determine that all personnel in the barn area hold proper occupational permits. The Racing Commission security officer shall also make afternoon spot checks to determine that security is in effect at all gates and entrances to the restricted areas. The Racing Commission security officer shall, during the evening racing hours, make a daily check to insure the presence of guards at all gates and entrances to secured areas.

70.3. During racing hours the Racing Commission security officer shall make a daily inspection of the test barn area, the winner's circle and the wagering area to determine that proper security is present and that the integrity of all restricted areas is protected. The Racing Commission security officer shall take particular notice on a daily basis to insure that no minors are engaged in the purchase or cashing of tickets and as well to insure that no other illegal activity is being conducted in the wagering area. The security officer shall further make note of the presence of association security in all areas and that they are properly performing their duties.

70.4. The Racing Commission security officer shall further assist the stewards and the track security in all shake downs or raids of the barn area, jockeys' quarters or in any other matters as may be directed by the stewards.

§178-1-71. State Breeder Awards.

71.1. A bona fide resident means a person who maintains a permanent residence within the State of West Virginia, with the intent of remaining in the state, and, for the purpose of qualifying for the awards mentioned in W. Va. Code §19-23-13. Further the resident shall have the physical facilities present in this

State to actively engage in the business, profession or occupation of owning, breeding or the siring of horses for racing purposes.

71.2. Claims for state awards shall be made within ninety (90) days after the running of the race for which an award is claimed.

71.3. Claimants for state awards shall substantiate that they have been residents of the State of West Virginia for at least one (1) year before the date that the claim for the award is submitted.

71.4. If more than one resident has an interest in a horse which earns an award, the Racing Commission shall pay one (1) award to the individual resident, appointed in writing, by the other resident or residents.

71.5. A corporation duly registered as a resident business with the Secretary of State, is a resident within the provisions of the law.

71.6. If more than one (1) stallion is indicated in the Jockey Club records to be the sire of the winning horse, the Racing Commission shall pay no sire owner.

§178-1-72. West Virginia Thoroughbred Development Fund.

72.1. A copy of The Jockey Club certificate of foal registration shall be attached to the West Virginia bred or sired registration form as a requirement to participate in the West Virginia thoroughbred development fund.

72.1.1. 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.

72.1.2. 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.

72.2. To qualify for the West Virginia accredited race fund, the breeders must qualify under one of the following:

72.2.1 The breeder of the West Virginia bred-foal is a West Virginia resident;

72.2.2. 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

72.2.3. The breeder of the West Virginia bred-foal is not a West Virginia resident and does not qualify under (2) above, but either the sire of the West Virginia bred-foal is a West Virginia stallion, or the mare is covered by a West Virginia stallion following the birth of that West Virginia bred-foal.

§178-1-73. Alcohol and Drug Testing.

73.1. No licensee, occupational permit holder or employee of any entity associated with the conduct of racing while on the grounds of a licensed or franchised race track shall have present within his or her system any amount of alcohol which would constitute legal impairment or intoxication.

73.1.1. Acting with reasonable cause, the stewards or a designated Racing Commission representative may direct any licensee, occupational permit holder or employee to submit to a Breathalyzer test. The licensee, occupational permit holder or employee shall, submit to the examination. If the results of the examination show a reading of .05 percent alcohol content or more, the licensee, occupational permit holder or employee may not continue his or her duties for that day. The licensee, occupational permit holder or employee is then subject to fine, or suspension by the stewards or Racing Commission.

73.1.2. For a subsequent violation, the licensee, occupational permit holder or employee may be subject to procedures following positive chemical analysis as listed in schedules I-V of the U.S. Code, Title 21 (Food and Drugs Section 812).

73.2. No licensee, occupational permit holder or employee of any entity associated with the conduct of racing while on the grounds of a licensed or franchised racetrack shall have present within his or her system any controlled substance as listed in schedules I-V of the U.S. Code, Title 21 (Food and Drugs Section 812), or any prescription legend drug unless the prescription legend drug is obtained directly or pursuant to a valid prescription or order from a duly licensed physician who is acting in the course of his or her professional practice.

73.2.1. Acting with reasonable cause, the stewards or a designated Racing Commission representative may direct any licensee, occupational permit holder or employee to deliver a specimen of urine in the presence of a person designated by the Racing Commission or subject himself or herself to the taking of a blood sample or other body fluids by a person designated by the Racing Commission.

73.2.2. In those cases, the stewards or the designated Racing Commission representative may prohibit the licensee, occupational permit holder or employee from participating in the day's racing or any racing until the licensee, occupational permit holder or employee's evidences a negative test result.

73.2.3. A sufficient sample should be collected to insure a quantity for a split sample when possible.

73.2.4. A licensee, occupational permit holder or employee's refusal to provide the samples required under this section as directed is in violation of this rule and is subject to sanction by the stewards or the Racing Commission.

73.2.5. All testing shall be at the expense of the Racing Commission or racing association.

73.3. The Racing Commission shall not allow a licensee, occupational permit holder or employee who is a first time violator to continue to participate in racing until the violator's condition has been professionally evaluated.

73.3.1. After professional evaluation, if a licensee's, occupational permit holder's or employee's condition proves non-addictive and not detrimental to the best interest of racing, the licensee, occupational permit holder or employee may participate in racing, provided he or she can produce a negative test result and agree to further testing at the discretion of the stewards or designated Racing Commission representative to assure continued abstinence of illegal substances or alcohol/abuse.

73.3.2. After professional evaluation, if the licensee's, occupational permit holder's or employee's condition proves addictive or detrimental to the best interest of racing, the Racing Commission shall not allow the licensee, occupational permit holder or employee to participate in racing until such time as he or she can produce a negative test result and show documented proof that he or she has successfully completed a certified alcohol drug rehabilitation program approved by the Racing Commission. The licensee, occupational permit holder or employee shall agree to further testing at the discretion of the stewards or Racing Commission representative to assure continued abstinence of illegal substances or alcohol/abuse.

73.3.3. For a licensee's, occupational permit holder or an employee's second violation, the stewards shall suspend their permit and allow the violator to enroll in a certified alcohol/drug rehabilitation program approved by the Racing Commission. The licensee, occupational permit holder or employee may apply for reinstatement at the discretion of the Racing Commission upon completion of program.

178-1-74. Health and Disability Benefits for West Virginia Jockeys.

74.1.The Jockeys' Guild or any successor organization duly authorized by a majority of the active jockeys in West Virginia is recognized by the Racing Commission as the entity to maintain and administer a trust for the purpose of providing health and disability benefits to eligible active or disabled West Virginia jockeys and their dependents. In order to maintain and administer the trust, the Jockeys'Guild or any successor organization shall elect two Trustees to serve initial terms of two and four years respectively. Upon the expiration of each term the Jockeys' Guild or any successor organization shall hold an election to select a Trustee for the expiring position.

74.1.2. The corpus of the trust shall be maintained, administered, and invested by a banking institution located in the State of West Virginia. A representative of the banking institution shall serve as

a Trustee and shall participate in the administration and maintenance of the trust.

74.2. The Trustees shall determine the eligibility requirements for administration of the trust ; Provided, that any eligibility requirements proposed shall have the prior written approval of the Racing Commission. The eligibility requirements shall include, but not be limited to, the following criteria:

74.2.1. Only an active or disabled West Virginia jockey and their dependents are eligible for benefits. An "active or disabled West Virginia jockey" is defined as one who is a bona fide resident of West Virginia as defined by W. Va. Code § 11-21-7(a) and who has filed a personal resident West Virginia Income Tax Return for the previous three (3) years.

74.2.2. A jockey shall be eligible if that jockey rides at least one hundred (100) races in a calender year with more than fifty (50) percent of the races occurring in West Virginia.

74.2.3. A jockey is not eligible for health benefits if he or she receives health benefits from any other state.

74.2.4. A jockey is not eligible for benefits if he or she is eligible for workers compensation or any other insurance policy providing benefits for hospitalization or medical care.

74.3. The duly authorized organization shall maintain and annually submit to the Racing Commission audited financial statements prepared by an independent auditing firm in accordance with standards and accounting principles as recognized by the American Institute of Certified Public Accountants (A.I.C.P.A.). The Racing Commission, through its employees or agents thereof, shall have full and free access at any time to all accounting records and documents, including, but not limited to, tax returns pertaining to this trust.

Table 45.25. Approved Jockeys Fees:

PURSE UNPLACED		WIN	2ND	3RD
$400 and under	$27	$19	$17	$16
$500	$30	$20	$17	$16
$600	$36	$22	$17	$16
$700 - $ 900	10%	$25	$22	$20
$1,000 - $ 1,400	10%	$30	$25	$22
$1,500 - $ 1,900	10%	$35	$30	$28
$2,000 - $ 3,400	10%	$45	$35	$33
$3,500 - $ 4,900	10%	$55	$45	$35
$5,000 - $ 9,900	10%	$65	$50	$40
$10,000 - $14,900	10%	5%	5%	$45
$15,000 - $24,900	10%	5%	5%	$50
$25,000 - $49,900	10%	5%	5%	$60
$50,000 - $99,900	10%	5%	5%	$75
$100,000 and up	10%	5%	5%	$100

Table 62.1

Distance	AGE	Jan.& Feb.	Mar.& April	May	June	July
	2 yrs.					
One-Half Mile	3 yrs.	117	119	121	123	125
	4 "	130	130	130	130	130
	5 " & up	130	130	130	130	130
Six Furlongs	2 yrs.					
	3 "	114	117	119	121	123
	4 "	129	130	130	130	130
	5 " & up	130	130	130	130	130
One Mile	2 yrs.					
	3 "	107	111	113	115	117
	4 "	127	128	127	126	126
	5 " & up	128	128	127	126	126
One Mile and a Quarter	2 yrs.					
	3 "	101	107	111	113	116
	4 "	125	127	127	126	126
	5 " & up	127	127	127	126	126
One Mile and a Half	2 yrs.					
	3 "	98	104	108	111	114
	4 "	124	126	126	126	126
	5 " & up	126	126	126	126	126
Two Miles	3 yrs. 96	102	106	109	112	
	4 "	124	126	126	126	126
	5 " & up	126	126	126	126	126

Distance	Age	Aug.	Sept.	Oct.	Nov.& Dec.
One-half Mile	2 yrs.	105	108	111	114
	3 "	126	127	128	129
	4 "	130	130	130	130
	5 " & up	130	130	130	130
Six Furlongs	2 yrs.	102	105	108	111
	3 "	125	126	127	128
	4 "	130	130	130	130
	5 " & up	130	130	130	130
One Mile	2 yrs.	96	99	102	
	3 "	119	121	122	123
	4 "	126	126	126	126
	5 " & up	126	126	126	126
One Mile and a Quarter	2 yrs.				
	3 "	118	120	121	122
	4 "	126	126	126	126
	5 " & up	126	126	126	126
One Mile and a Half	2 yrs.				
	3 "	117	119	121	122
	4 "	126	126	126	126
	5 " & up	126	126	126	126
Two Miles	3 yrs. 114	117	119	120	
	4 "	125	125	124	124
	5 " & up	125	125	124	124

Table 43.7

The following fees are for occupational permits issued effective for calendar year 2001 and thereafter

Stable Name --	20.00
Corporation --	20.00
Vendor --	20.00
Owner - with registration of colors --	15.00
Owner-Trainer (same person) --	30.00
Trainer --	15.00
Assistant Trainer --	15.00
Jockey --	15.00
Veterinarian --	15.00
Apprentice Jockey --	10.00
Plater --	10.00
Authorized Agent (each person) --	10.00
Jockey Agent (limit 2 jockeys) each --	10.00
Mutuel Employee --	10.00
Photographers, totalizator, film patrol --	10.00
Stable Foreman --	10.00
Officials	
Steward	15.00
Starter	15.00
Racing Secretary --	15.00
Minor Officials -	
Paddock Judge --	10.00
Horsemen's Bookkeeper --	10.00
Clerk of Scales --	10.00
Timer --	10.00
Assistant Racing Secretary --	15.00
Outrider --	10.00
Assistant Starter --	10.00
Stable Hand	10.00
Concession --	10.00
Maintenance --	10.00
Parking, etc. Valet --	10.00
Exercise rider --	10.00
Groom --	10.00
Vet's Assistant --	10.00
Admission --	10.00
Pony Riders -	10.00
Security --	10.00
Video Lottery Employees	10.00
Others not specified	10.00

SPLIT SAMPLE CHAIN OF CUSTODY VERIFICATION FORM

This split sample verification form shall be completed and signed by the representative 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.

The sample was removed from the split sample freezer on:

DATE: _____ TIME: _____ SAMPLE NUMBER: _____

The sample was sent to the Laboratory _____
(name of Laboratory)

Street _____ City _____ State _____ Zip _____

Signed by _____ Dated _____ Time _____
(Racing Commission Veterinarian)

Signed by _____ Dated _____ Time _____
(Owner, trainer or designee)

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

The sample will be sent by _____
(Carrier)

Address: _____

Signed by _____ Dated _____ Time _____
(Racing Commission Veterinarian)

Signed by _____ Dated _____ Time _____
(owner, trainer or designee)

Date _____ Time _____ of retrieval of the split sample from the

Freezer by _____ Dated _____ Time _____
(Racing Commission Veterinarian)

Signed by_____Dated_____Time_____
(owner, trainer or designee)

Condition of the split sample package immediately prior to the transfer of

custody to the carrier_____ The exterior of the package shall be secured and identified with the initialed tape, evidence tape or other means to prevent tampering with the package.

Signed by_____Dated_____Time_____
(Racing Commission Veterinarian)

Signed by_____Dated_____Time_____
(owner, trainer or designee)

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

Date_____Time_____the sample is transferred to the carrier

Signed by_____Dated_____Time_____
(Racing Commission Veterinarian)

Signed by_____Dated_____Time_____
(owner, trainer or designee)