

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

Form #3

Do Not Mark In This Box

FILED
2012 AUG 27 PM 3:51

OFFICE WEST VIRGINIA
SECRETARY OF STATE

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

AGENCY: West Virginia Racing Commission TITLE NUMBER: 178

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

AMENDMENT TO AN EXISTING RULE: YES NO

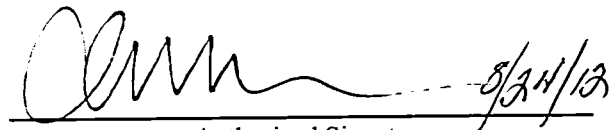
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1

TITLE OF RULE BEING AMENDED: Thoroughbred Racing

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

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


Authorized Signature

QUESTIONNAIRE

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

DATE: August 22, 2012

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: *(Agency Name, Address & Phone No.)* West Virginia Racing Commission

900 Pennsylvania Avenue, Suite 533

Charleston, West Virginia 25302 (304) 558-2150

LEGISLATIVE RULE TITLE: Thoroughbred Racing, 178 CSR 1

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

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
July 11, 2012

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

c. Date of Public Hearing(s) *or* Public Comment Period ended:
August 13, 2012

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

Attached x No comments received

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

August 27, 2012

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

Jon Amores, Executive Director, 900 Pennsylvania Avenue, Suite 533, Charleston, West Virginia 25302 (304) 558-2150 (ph); (304) 558-6319 (fax)
Jon.Amores@wv.gov

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

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

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

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

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

~~Not applicable~~

b. Date of hearing or comment period:

Not applicable

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

Not applicable

d. Attach findings and determinations and reasons:

Attached Not applicable

BRIEF SUMMARY OF PROPOSAL

THOROUGHBRED RACING 178 CSR 1

The proposed amendments to the rule are intended to update, clarify and address problems with the rule so that the West Virginia Racing Commission can effectively regulate thoroughbred racing in this State. In 2011, the Commission completely re-wrote, repealed and replaced the existing Thoroughbred Racing Rule that was effective April 6, 2007. The current rule, effective July 10, 2011, is the product of that effort. In going through the re-write process in 2011, the Commission recognized that a more frequent examination of its rule is necessary to keep abreast of industry standards and to address issues with the rule that arise from time to time. These proposed amendments are a result of efforts undertaken in 2012, with an eye toward the 2013 legislative rule-making cycle, to keep the rule current and responsive to the needs of the industry and the regulation thereof.

When the Commission re-wrote the rule in 2010-2011, it appointed a constituent committee to deliberate and recommend changes to the rule. The Commission followed this same practice in 2012 in re-examining the rule. The committee members who engaged in the re-examination process are as follows: The Commission's legal counsel from the Attorney General's Office, Kelli Talbott, Senior Deputy Attorney General, Chair; Danny Wright, Chief Steward for the Commission at Charles Town Racetrack; Jim O'Brien, Chief Steward for the Commission at Mountaineer Racetrack; Erich Zimny, Director of Racing Operations at Charles Town Racetrack; Rose Mary Williams, Director of Racing at Mountaineer Racetrack; Maria Catagnani, Executive Director of the Charles Town Horsemen's Benevolence and Protective Association (HBPA); Philip Heidenreich, Second Vice President of the Mountaineer HBPA; Dr. Francis "Chip" Daniel, D.V.M., a member of the Board of Directors of the West Virginia Thoroughbred Breeders Association; Jeff Johnston, Regional Manager of the Jockeys' Guild; Dr. Elizabeth Daniel, D.V.M., State Veterinarian at Charles Town Racetrack; and, Dr. Beth Albrecht, D.V.M., State Veterinarian at Mountaineer Racetrack.

In April 2012, the committee's work resulted in a recommendation to the Racing Commission to make amendments to the rule and the proposed amendments were submitted for the Commission's consideration. The Commission voted to adopt the committee's proposed amendments; make two medication rule amendments; and, put the rule out for public comment. Therefore, the rule is now filed for public comment.

The highlights of the proposed amendments to the rule are as follows:

- A requirement to comport with the Model Rule of the Association of Racing Commissioners International (RCI) that mandates the posting of jockey insurance coverage information by the racetracks.
- Updates to the provisions of the rule pertaining to permit holder fingerprinting and background checks in connection with the issuance of permits.

- An amendment to the rule that will allow the Commission to examine the immigration status of a permit applicant through the United States Department of Homeland Security.
- Amendments to the rule to provide for and clarify the grounds upon which the Commission and/or the stewards may deny, suspend or revoke a permit.
- Amendments to the rule to bolster the accountability that permit holders have for reporting knowledge of a violation of the rules of racing.
- Amendments to the horse owner permitting provisions of the rule so that the permitting requirement only applies to those owning an interest in a horse of five percent or greater.
- Amendments to the jockey scale of weights rule to comport with the RCI Model Rule which provides for exceptions to the minimum weight requirement.
- Amendments to the Non-Steroidal Anti-Inflammatory Drug (NSAID) provisions of the rule to lower the acceptable threshold for phenylbutazone in horses from five micrograms per milliliter to two micrograms per milliliter. These amendments make West Virginia's rule in conformance with the RCI Model Rule.
- An amendment to the rule to require that the drug Furoesimide (Lasix®) shall only be administered to horses on racetrack grounds.
- An amendment to the rule to require that horses that are potential starters in a race be on racetrack grounds for pre-race examination by a State Veterinarian at least four hours before post time of the race in which the horse is scheduled to start.
- Updates to Table D of the Rule, the Uniform Classification Guidelines for Foreign Substances published by RCI, to incorporate changes made by RCI after the last enactment of West Virginia's rule.
- Amendments to Table E of the Rule, Penalty Guidelines for Violations of Medication and Prohibited Substances Rule, to increase the penalties to match those set forth in the RCI Model Rule.
- Amendments to the rule to eliminate the use of adjunct bleeder medications in horses on race day to conform with the RCI Model Rule.
- Amendments made to the rule to keep West Virginia's rule current with the RCI Model Rule pertaining to extracorporeal shock wave therapy in horses.

STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE

178 CSR 1 THOROUGHBRED RACING

The proposed amendments to the rule are intended to update, clarify and address problems with the rule so that the West Virginia Racing Commission can effectively regulate thoroughbred racing in this State. In 2011, the Commission completely re-wrote, repealed and replaced the existing Thoroughbred Racing Rule that was effective April 6, 2007. The current rule, effective July 10, 2011, is the product of that effort. In going through the re-write process in 2011, the Commission recognized that a more frequent examination of its rule is necessary to keep abreast of industry standards and to address issues with the rule that arise from time to time. These proposed amendments are a result of efforts undertaken in 2012, with an eye toward the 2013 legislative rule-making cycle, to keep the rule current and responsive to the needs of the industry and the regulation thereof.

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

FISCAL NOTE FOR PROPOSED RULES

THOROUGHBRED RACING RULE 178 CSR 1

Rule Title: _____

Type of Rule: Legislative Interpretive Procedural

Agency: RACNIG COMMISSION

Address: 106 DEE DRIVE, SUITE 2
CHARLESTON, WV 25311

Phone Number: 304-558-2150 Email: JOEMOORE@WVNET.EDU

Fiscal Note Summary

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

THIS MEASURE WILL HAVE NO COST IMPACT TO THE STATE OF WEST VIRGINIA. THE FINES ISSUED FOR MEDICAL RULE VIOLATIONS ARE BEING INCREASED TO AGREE WITH THE RCI MODEL RULE. THIS ADDITIONAL REVENUE WILL BE PASSED THROUGH TO THE STATE'S GENERAL REVENUE FUND.

Fiscal Note Detail

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

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "--")	Next Increase/Decrease (use "--")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Other			
2. Estimated Total Revenues		20,000.00	20,000.00

Rule Title: _____

Rule Title: _____

3. Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues.

THE ABOVE ESTIMATES WERE MADE BASED ON THE PREVIOUS TWO CALENDAR YEARS FINES FOR MEDICAL RULES VIOLATIONS ISSUED AT THOROUGHBRED RACETRACKS. THE RULE WOULD INCREASE THE DOLLAR AMOUNT OF SUCH FINES AND WOULD RESULT IN AN INCREASE IN REVENUE OR APPROXIMATELY \$20,000.00

MEMORANDUM

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

[Empty box for memorandum content]

Date: 4/19/12

Signature of Agency Head or Authorized Representative
[Handwritten Signature]

FILED

TITLE 178
LEGISLATIVE RULE
RACING COMMISSION

2012 AUG 27 PM 3:51

SERIES 1
THOROUGHBRED RACING

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§178-1-1. General.

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

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

1.3. Filing Date. -- ~~April 11, 2011.~~

1.4. Effective Date. -- ~~July 10, 2011.~~

1.5. ~~Repeal and Replace.~~ -- ~~This rule repeals and replaces W. Va. 178CSR1, Racing Commission, Thoroughbred Racing, filed April 6, 2007 and effective April 6, 2007. Amendment. – This rule amends W. Va. 178CSR1, Racing Commission, Thoroughbred Racing, filed April 11, 2011 and effective July 10, 2011.~~

PART 1. DEFINITIONS.

§178-1-2. Definitions.

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

2.1. “Accredited thoroughbred horse” means a horse that is registered with the West Virginia Thoroughbred Breeders Association and that is foaled in West Virginia or sired by an accredited West Virginia sire.

2.2. “Accredited West Virginia sire” means a sire that is permanently domiciled in West Virginia, stands a full season in West Virginia, and is registered with the West Virginia Thoroughbred Breeders Association.

~~2.3. “Adjunct medication” means Aminocaproic acid, Tranexamic acid, Carbazochrome and no other medications.~~

~~2.4.~~ 2.3. “Age” means the age of a thoroughbred, which is reckoned as beginning on the first day of January in the year in which it is foaled.

~~2.5.~~ 2.4. “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.~~ 2.5. “Also-Eligible” pertains to:

~~2-6.a.~~ 2.5.a. a number of eligible horses, properly entered, which were not drawn for inclusion in a race, but which become eligible according to preference or lot if an entry is scratched prior to the scratch time deadline; or

~~2-6.b.~~ 2.5.b. in a trial race, the next preferred contestant that is eligible to participate when an entry is scratched, pursuant to the written conditions of the race.

~~2-7.~~ 2.6. "Appeal" means a request for the Racing Commission or its designee to hold a hearing and review any decisions or rulings of the stewards or to consider and review the ejection of an occupational permit holder by an association as authorized by West Virginia Code § 19-23-6 and subsection 6.1. of this rule.

~~2-8.~~ 2.7. "Applicant" means any racing association making application for a license or any person making application for a permit.

~~2-9.~~ 2.8. "Arrears" means all moneys due for entrance fees (including jockeys' fees), fines, subscriptions for stakes, purchase money in claiming or selling races and also any default in money incident to the rules.

~~2-10.~~ 2.9. "Association" or "racing association" means any individual, partnership, firm, association, corporation or other entity or organization of whatever character or description licensed by the Racing Commission to conduct horse racing and pari-mutuel wagering.

~~2-11.~~ 2.10. "Association grounds" means all real property utilized by the association in the conduct of its race meeting, including the racetrack, grandstand, concession stands, offices, barns, stable area, employee housing facilities and parking lots and any other areas under the jurisdiction of the Racing Commission.

~~2-12.~~ 2.11. "Authorized agent" means a person appointed by an owner or a partnership to act as his or her representative by the execution of a notarized document signed by the owner and filed with the Racing Commission.

2.12. "Beneficial interest" means all direct or indirect forms of ownership or control, voting power, or investment power, held through any contract, lien, lease, partnership, stockholding syndication, joint venture, understanding, relationship (including family relationship), present or reversionary right, title or interest, or otherwise.

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

2.14. "Bleeder" means a horse, which has demonstrated external evidence of exercise induced pulmonary hemorrhage (epistaxis, or bleeding from one or both nostrils) and/or the existence of hemorrhage into the trachea post-exercise as observed upon endoscopic examination or determined by laboratory methods.

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

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

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

- 2.18. "Bred" means the place of a horse's birth.
- 2.19. "Breeder" means the owner of the horse's dam at the time of foaling.
- 2.20. "Breeder of an accredited West Virginia horse" means the owner of the foal at the time it was born in West Virginia.
- 2.21. "Chairman" means the chairman of the Racing Commission.
- 2.22. "Claiming race" means a race in which any horse starting may be claimed (purchased for a designated amount) in conformance with this rule.
- 2.23. "Commission" means the West Virginia Racing Commission.
- 2.24. "Commissioner" means a member of the West Virginia Racing Commission.
- 2.25. "Complaint" means all signed, written complaints made to the Racing Commission or any of its representatives.
- 2.26. "Conditions" means qualifications that determine a horse's eligibility to be entered in a race.
- 2.27. "Coupled Entry" means two or more contestants in a contest that are treated as a single betting interest for pari-mutuel wagering purposes.
- 2.28. "Course" means the track over which horses race.
- 2.29. "Day" means a twenty-four (24) hour period ending at midnight.
- 2.30. "Dead heat" means the finish of a race in which the noses of two or more horses reach the finish line at the same time.
- 2.31. "Declaration" means the act of withdrawing an entered horse from a race prior to the closing of entries.
- 2.32. "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.
- 2.33. "Entry" means:
- 2.33.a. a horse eligible for and entered in a race; or
 - 2.33.b. two (2) or more horses entered in the same race, which have common ties of ownership, lease or training.
- 2.34. "False Start" is when a horse(s) exits prematurely through the front of the gates prior to the starter officially dispatching the field regardless of cause. This does not include a horse which exits through the front of the gates and is subsequently reloaded.
- ~~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” means a race in which the weights to be carried by the horses are assigned by the racing secretary for the purpose of equalizing their chances of winning for all horses entered.

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

~~2.38:~~ 2.39. “Horse” means an equine registered to race including and designated as a mare, filly, stallion, colt, ridgeling or gelding.

~~2.39:~~ 2.40. “Horse racing” means any type of equine racing, including, but not limited to thoroughbred racing and harness racing, involving pari-mutuel wagering.

~~2.40:~~ 2.41. “Horse race meeting” means the whole period of time ending on December 31st for which the Racing Commission requires a license.

~~2.41:~~ 2.42. “Inquiry” means an investigation by the stewards of potential interference in a contest prior to declaring the result of that contest official.

~~2.42:~~ 2.43. “Jockey” means a professional rider issued an occupational permit to ride in races.

~~2.43:~~ 2.44. “Legitimate breakage” means the percentage left over in the division of a pool.

~~2.44:~~ 2.45. “License” means an authorization by the Racing Commission to an association to conduct horse racing with pari-mutuel wagering at a specified location.

~~2.45:~~ 2.46. “Licensee” means any racing association holding a license required by the provisions of W. Va. Code §19-23-1 *et seq.* and this rule.

~~2.46:~~ 2.47. “Maiden” means a horse, which has never, in any country, won an official flat race published in the reports, records and/or statistics of the Daily Racing Form, Equibase or other recognized publications, other than in a match or private sweepstakes. A maiden which has been disqualified after having finished first is still to be considered a maiden.

~~2.47:~~ 2.48. “Maiden race” means a contest restricted to nonwinners.

~~2.48:~~ 2.49. “Match” means a race between two or more horses under conditions agreed to by their owners.

~~2.49:~~ 2.50. “Meet” means the specified periods and dates within a race meeting, during which an association is authorized by the Racing Commission to conduct racing and/or pari-mutuel wagering.

~~2.50:~~ 2.51. “Meeting” means the specified periods and dates each year during which an association is authorized by the Racing Commission to conduct racing and/or pari-mutuel wagering.

~~2.51:~~ 2.52. “Milkshaking” or “biocarbonate loading” means a bicarbonate or other alkalinizing substance administered to a horse that elevates the horse’s bicarbonate level or pH level above those existing naturally in the untreated horse at normal physiological concentrations as determined by the Commission, regardless of the means of administration.

~~2-52:~~ 2.53. “Month” means a calendar month.

~~2-53:~~ 2.54. “Mutuel Field” means a single betting interest involving more than one (1) horse which is formed when the number of horses starting a race exceeds the numbering capacity of the totalisator and where all horses of a higher number are grouped in the mutuel field.

~~2-54:~~ 2.55. “Nerved” means any horse on which a neurectomy has been performed.

~~2-55:~~ 2.56. “No contest” means a race canceled for any reason by the stewards.

~~2-56:~~ 2.57. “Nominator” means the person in whose name the horse is entered for a race.

~~2-57:~~ 2.58. “Objection” means a verbal claim of foul in a race lodged with the stewards or their designee by the horse's jockey, trainer, owner or the owner's authorized agent before the stewards declare the race official.

~~2-58:~~ 2.59. “Official order of finish” means the order of finish of the horses in a contest as declared official by the stewards.

~~2-59:~~ 2.60. “Official starter” means the official responsible for dispatching the horses for a race.

~~2-60:~~ 2.61. “Official running time” means the elapsed time from the moment the first horse crosses the starting point until the first horse crosses the finish line.

~~2-61:~~ 2.62. “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.

~~2-62:~~ 2.63. “Outstanding ticket” means a winning or a refundable pari-mutuel ticket, which was not cashed during the performance for which it was issued; also known as “outs”.

~~2-63:~~ 2.64. “Overnight” means a contest for which the entries are closed at a time set by the association's racing secretary.

~~2-64:~~ 2.65. “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.

~~2-65:~~ 2.66. “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.

~~2-66:~~ 2.67. “Owner of an accredited West Virginia sire” means the owner of record at the time the offspring is conceived.

~~2-67:~~ 2.68. “Paddock” means an enclosure in which horses scheduled to compete in a contest are saddled prior to racing.

~~2-68:~~ 2.69. “Pari-mutuel” means a mutuel or collective pool that can be divided among those who have contributed their wagers to one central pool. The odds of these wagers are to be reckoned in accordance with the collective amounts wagered upon each horse running in a horse race relative to the amount wagered on each horse in each pool with the total to be divided among the first three (3) contestants on the basis of the number of wagers.

~~2.69:~~ 2.70. "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.

~~2.70:~~ 2.71. "Patron" means a member of the public present on the grounds of an association during a meeting for the purpose of wagering or to observe racing.

~~2.71:~~ 2.72. "Performance" means a schedule of races run consecutively as one program.

~~2.72:~~ 2.73. "Permit" or "occupational permit" means a permit required by W. Va. Code §19-23-2(a) and this rule for those who are involved in or employed by those involved in racing or operating a licensed racetrack or those operating concessions for or under authority from any association.

~~2.73:~~ 2.74. "Permit holder" or "occupational permit holder" means any individual holding a permit or occupational permit required by W. Va. Code §19-23-2(a) and this rule.

~~2.74:~~ 2.75. "Person" means any individual, partnership, firm, association, corporation or other entity or organization of whatever character or description.

~~2.75:~~ 2.76. "Pool" means a combination of interests in a joint wagering enterprise or a stake in the enterprise.

~~2.76:~~ 2.77. "Post position" means the pre-assigned position from which a horse will leave the starting gate.

~~2.77:~~ 2.78. "Post time" means the time set for the arrival at the starting point of the horses in a contest. Post time shall be shown at a reasonable time before the race on a clock device provided specifically for this purpose, and shall be prominently displayed and clearly readable from the grandstand.

~~2.78:~~ 2.79. "Preponderance of evidence" means evidence which is of a greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not.

~~2.79:~~ 2.80. "Primary Testing Laboratory" means a laboratory selected by the Racing Commission employing official chemists who are members in good standing with the Association of Official Racing Chemists.

~~2.80:~~ 2.81. "Private sweepstake" means a contest to which no money or other prize is added and which has not at any time been advertised either by publication, or by circular, or entry blank, or in any other way.

~~2.81:~~ 2.82. "Program" means the published listing of all contests and contestants for a specific performance.

~~2.82:~~ 2.83. "Prospective licensee" 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.*

~~2.83:~~ 2.84. "Protest" means a written complaint made to the stewards concerning a horse entered in a race in which the questioned horse is entered.

~~2.84:~~ 2.85. "Purse" means the total cash amount for which a race is contested.

~~2.85.~~ 2.86. "Purse race" means a race for money or other prize to which the owners of the horses engaged do not contribute.

~~2.86.~~ 2.87. "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.

~~2.87.~~ 2.88. "Race day" means a calendar day during a race meeting in which pari-mutuel wagering is conducted on live racing.

~~2.88.~~ 2.89. "Racing official" means the officials of a race meeting set forth in section 7 of this rule and any other person and/or position designated by the Racing Commission.

~~2.89.~~ 2.90. "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.

~~2.90.~~ 2.91. "Random testing" means testing permit holders for alcohol or controlled substances, or collecting specimens or samples from thoroughbreds, in a manner that assures that all affected individuals or horses have an equal probability of being selected for testing.

~~2.91.~~ 2.92. "Reasonable cause/reasonable suspicion testing" means testing permit holders for alcohol or controlled substances, or collecting specimens or samples from thoroughbreds, based on the reasonable belief of the stewards that a permit holder has alcohol or a controlled substance in his or her system, or that a thoroughbred has a drug, medication or other prohibited substance in its system that may constitute a violation of this rule.

~~2.92.~~ 2.93. "Recognized meeting" means:

~~2.92.a.~~ 2.93.a. a meeting held under license of the Racing Commission; or

~~2.92.b.~~ 2.93.b. a meeting held in this or any other country under the sanction of a Commission or turf authority whose jurisdiction over the Racing Commission recognizes racing of any nature, and which gives effect to sentences imposed by the Racing Commission upon those guilty of racing rule violations.

~~2.93.~~ 2.94. "Restricted area" means an enclosed portion of the association's ground where access is limited to an occupational permit holder.

~~2.94.~~ 2.95. "Result" means that part of the official order of finish used to determine the pari-mutuel payout of pools for each individual contest.

~~2.95.~~ 2.96. "Ruled-off" means the act of the stewards disallowing a person to enter or remain upon the premises of any or all licensed racetracks and/or simulcast facilities.

~~2.96.~~ 2.97. "Scratch" means the act of withdrawing an entered horse from a contest after the closing of entries.

~~2.97.~~ 2.98. "Scratch time" means the deadline for withdrawal of entries from a scheduled performance.

~~2.98:~~ 2.99. "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.

~~2.99:~~ 2.100. "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.

~~2.100:~~ 2.101. "Sponging" means the use of a sponge or other objects that are used to interfere with the respiratory system of a horse.

~~2.101:~~ 2.102. "Stable Name" means a name used other than the actual legal name of an owner or lessee and registered with the Racing Commission.

~~2.102:~~ 2.103. "Stakes race" means a contest in which nomination, entry and/or starting fees are assessed and contribute to the purse, unless it is a guaranteed purse or an invitational. No overnight race shall be considered a stakes race.

~~2.103:~~ 2.104. "Starter" means a horse which becomes an actual contestant in a race by virtue of the starting gate opening in front of it upon dispatch by the official starter.

~~2.104:~~ 2.105. "Steward" means a duly appointed racing official with powers and duties specified by W. Va. Code §19-23-1 *et seq.* and/or this rule.

~~2.105:~~ 2.106. "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.

~~2.106:~~ 2.107. "Tailed" means the restraining of an unruly horse in the starting gate by manually raising his tail.

~~2.107:~~ 2.108. "Tonged" means the restraining of an unruly horse in the starting gate by clamping his ear with a set of tongs.

~~2.108:~~ 2.109. "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.

~~2.109:~~ 2.110. "To the dime" means that wagers will be figured and paid to the dime.

~~2.110:~~ 2.111. "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.

~~2.111:~~ 2.112. "Walkover" means a race in which only one (1) horse starts or in which all the starters are owned by the same interest.

~~2.112:~~ 2.113. "Week" means a calendar week.

~~2.113:~~ 2.114. "Weigh in" means the act of a jockey weighing himself or herself in the presence of the clerk of scales after a race.

~~2.114.~~ 2.115. “Weigh out” means the act of a jockey weighing himself or herself in the presence of the clerk of scales prior to a race.

~~2.115.~~ 2.116. “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.

~~2.116.~~ 2.117. “Winner” means the horse whose nose reaches the finish line first or is placed first through disqualification by the stewards.

~~2.117.~~ 2.118. “Year” means a calendar year.

PART 2. GENERAL AUTHORITY.

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

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

3.2. The laws of the state of West Virginia and this rule promulgated by the Racing Commission supersede the conditions of a race or the regulations of a racing association.

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

§178-1-4. Power Of Entry.

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

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

§178-1-5. Racing Commission personnel.

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

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

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

5.1.b. working with and/or at the direction of the stewards and/or the Racing Commission to review and evaluate applications for occupational permits or licenses, and any information submitted or gathered in connection with such applications;

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

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

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

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

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

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

5.3.a. distributing applications for occupational permits;

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

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

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

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

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

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

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

5.4.a. The director of audit and the auditors of pari-mutuel wagering shall have free access to the space or enclosure where the pari-mutuel system of wagering is conducted or calculated at any horse race meeting for the purpose of ascertaining whether or not the licensee is deducting and retaining only a pari-mutuel commission as provided in the West Virginia Code, and is otherwise complying with the other provisions of the West Virginia Code relating to the pari-mutuel system.

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

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

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

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

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

5.4.g. In accordance with W. Va. Code §19-23-13, all moneys held by any licensee for the payment of outstanding and unredeemed pari-mutuel tickets, if not claimed within ninety (90) days after the close of the horse race meeting in connection with which the tickets were issued, shall be turned over by the licensee to the director of audit within fifteen (15) days after the expiration of the ninety (90) day period. The licensee shall give any information requested by the Racing Commission and/or the director of audit concerning outstanding and unredeemed tickets including, but not limited to:

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

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

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

5.4.g.4. a statement verifying that the redeemed amount was subtracted from the "outs" balance which existed at the close of the meeting with the remaining balance to be included in the remittance of the association in settlement of the "outs" account for the meeting.

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

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

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

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

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

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

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

§178-1-6. Ejection/Exclusion.

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

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

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

PART 3. RACING OFFICIALS.

§178-1-7. General Provisions.

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

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

7.2.a. of good character and reputation;

7.2.b. experienced in thoroughbred racing;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7.6. Observations and Notifications. Any racing official shall report to the stewards as soon as possible any perceived issues with a horse based on its condition prior to the race which may significantly affect the running of the race. Upon notification to the stewards, they shall conduct an immediate investigation.

~~7.6:~~ 7.7. Complaints Against Racing Officials. The following provisions apply to the filing and disposition of complaints against racing officials:

~~7.6.a:~~ 7.7.a. Complaints against any steward shall be made in writing to the Racing Commission and shall be signed by the complainant.

~~7.6.b.~~ 7.7.b. Any complaint against a racing official other than a steward shall be made to the stewards in writing and shall be signed by the complainant. All such complaints shall be reported to the Racing Commission by the stewards, together with a report of the action taken or the recommendation of the stewards.

~~7.6.c.~~ 7.7.c. A racing official may be held responsible by the stewards or the Racing Commission for the actions of their assistants.

~~7.7.~~ 7.8. Appointment of Racing Officials. All racing officials shall be appointed by the association holding the meeting, with the exception of the Racing Commission veterinarian(s) and the stewards, who shall be appointed by the Racing Commission. All association appointments, however, are subject to the approval of the Racing Commission, which reserves the right to demand a change of personnel for what the Racing Commission, in its sole discretion, considers sufficient reason. The successor to the replaced official is also subject to the approval of the Racing Commission.

~~7.8.~~ 7.9. Appointment of Substitute Racing Officials. When a vacancy occurs among the racing officials other than the stewards and the Racing Commission veterinarian(s), and when the association has not or is unable to fill a vacancy before the post time of the first race of the day, or when a vacancy occurs during the running of the races, the stewards shall fill the vacancy immediately.

§178-1-8. Stewards.

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

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

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

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

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

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

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

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

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

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

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

8.3.g. The stewards may call on any person in whose name a horse is entered to produce proof that the horse entered is not the property, either wholly or in part, of any person who is disqualified, and to produce proof of the extent of his or her interest or property in the horse. If proof is not given to their satisfaction, the stewards may declare or eliminate the horse from the race.

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

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

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

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

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

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

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

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

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

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

8.5.g.1. issue a reprimand;

8.5.g.2. assess a fine not to exceed five one hundred thousand dollars (~~\$5,000.00~~) (\$100,000.00) or an amount equal to 100% of the purse per violation;

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

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

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

8.5.g.6. revoke a permit; or

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

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

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

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

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

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

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

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

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

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

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

8.6.a. On each racing day, and those days when there is no racing but where entries are being taken for the next succeeding day of racing, one (1) or more stewards shall be on duty from the time the association's racing secretary's office opens until the entries are closed. Provided that, if the stewards depart from association grounds prior to the time that entries are closed, then at least one (1) steward shall be available by phone until close of entries.

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

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

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

8.9. **Records and Reports.** The stewards shall maintain a log of the stewards' official activities. The log shall describe all questions, disputes, protests, complaints, or objections brought to the attention of the stewards on all interviews, investigations and rulings made by the stewards. The log shall be available at all times for inspection by the Racing Commission or its designees and by anyone appealing a stewards' ruling to the Racing Commission.

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

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

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

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

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

§178-1-9. Racing Secretary.

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

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

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

9.1.c. The association's racing secretary shall receive all entries and declarations, and he or she, or any other person designated by the association, shall receive all stakes, entrance moneys and fees incident to the meeting within fourteen (14) days after the conclusion of the meeting, and shall disburse all receipts of money to any person that is to receive any money.

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

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

9.4. Conditions. The following provisions apply to the association's racing secretary's authority over the conditions of races:

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

9.4.b. The racing secretary shall be responsible for making reasonable interpretations of the conditions and eligibility he or she has established.

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

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

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

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

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

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

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

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

§178-1-10. Horsemen's Bookkeeper.

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

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

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

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

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

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

10.2.e. If the horsemen's bookkeeper is an employee of the association, ~~The~~ association licensee is subject to disciplinary action by the Racing Commission for any violations of or non-compliance with the provisions of this rule.

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

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

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

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

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

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

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

§178-1-11. Paddock Judge.

11.1. General Authority. The paddock judge shall:

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

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

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

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

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

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

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

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

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

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

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

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

§178-1-12. Horse Identifier.

12.1. General Authority. The horse identifier shall:

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

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

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

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

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

12.3. Fraud or attempted fraud in the identification of a thoroughbred. Any person attempting to establish the identity of a thoroughbred or its ownership is responsible to the same extent as the owner, and shall be subject to a fine or suspension in the case of fraud or attempted fraud.

§178-1-13. Clerk of Scales.

13.1. General Authority. The clerk of scales shall:

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

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

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

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

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

13.1.f. assist the jockey room custodian;

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

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

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

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

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

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

§178-1-14. Jockey Room Custodian.

14.1. General Authority. The jockey room custodian shall:

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

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

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

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

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

14.1.f. ascertain that any jockey attendant not approved by the stewards and not holding an occupational permit issued by the Racing Commission is permitted to assist any jockey at any time;

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

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

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

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

14.2. Prohibited conduct. The jockey room custodian shall not lend money to any jockey or any other person in the jockey room and shall not sell or exchange raffle tickets. The jockey room custodian shall not be involved in any financial transactions of any kind in the jockey room, with the exception of the buying and selling of racing equipment used by the jockeys.

§178-1-15. Starter.

15.1. General Authority. The starter shall:

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

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

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

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

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

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

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

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

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

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

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

15.4.b. impede the start of a race;

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

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

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

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

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

§178-1-16. Timer/Clocker.

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

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

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

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

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

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

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

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

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

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

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

§178-1-17. Placing Judges.

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

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

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

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

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

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

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

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

18.1.a. be employed by the Racing Commission;

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

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

18.1.d. refuse employment or payment, directly or indirectly, from any thoroughbred owner or trainer of a thoroughbred racing or intending to race in this jurisdiction while employed as a Racing Commission veterinarian;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18.1.z. cause the Uniform Classification Guidelines for Foreign Substances as promulgated by the Association of Racing Commissioners International (RCI) (revised ~~January~~ December 2011), set forth in table 178-1 D at the end of this rule, and any medication/substance thresholds set forth in section 49 of this rule, to be publicly posted in the office of Racing Commission veterinarian(s).

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

PART 4. ISSUANCE OF LICENSES AND DUTIES OF LICENSEES.

§178-1-19. License Required.

19.1. Any individual, partnership, firm, association, corporation or other entity or organization of whatever character or description wishing to obtain a license to conduct a race meeting with pari-mutuel

wagering during any calendar year shall file a license application with the Racing Commission on forms prescribed by the Racing Commission.

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

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

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

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

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

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

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

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

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

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

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

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

upon which the horse race meeting shall be held, the location of the horse racetrack, place or enclosure where the horse race meeting is to be held, and other information as the Racing Commission shall consider proper.

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

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

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

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

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

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

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

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

19.5.h. Has failed to furnish a bond or other adequate security, if the same is required by the Racing Commission under W. Va. Code §19-23-7(b) and this rule.

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

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

§178-1-20. General Duty.

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

20.2. No individual who has a direct or indirect financial interest of twenty percent (20%) or more in a partnership, firm, association, corporation or other entity or organization of whatever character or description

licensed by the Racing Commission to conduct horse racing and pari-mutuel wagering shall race or permit, or cause to be raced, any horse in which he or she has an interest, either direct or indirect, at any meeting where racing is conducted under the license.

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

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

§178-1-21. Financial Requirements.

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

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

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

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

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

21.2. Financial Reports. Each licensee shall file audited financial statements on or before the 30th of April of each year, unless otherwise authorized by the Racing Commission. These financial statements will cover all income and disbursements relating directly and indirectly to horse racing activities in the state, including, but not limited to, the following: concessions, programs, parking, pari-mutuel wagering, and breakage. The financial statements shall be prepared in accordance with generally accepted accounting principles and shall be accompanied by the report of an independent certified public accountant. If the association is a corporation, it shall provide the Racing Commission with a copy of its annual audited, consolidated financial statements contained in the corporation's annual report to its shareholders and, if applicable, as submitted to the United States Securities and Exchange Commission.

§178-1-22. Facilities and Equipment.

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

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

22.1.b. The association shall furnish and maintain at least one (1) ambulance for the exclusive use of persons, staffed with at least two (2) emergency medical technicians, one of whom shall be a certified

paramedic, at any time the racetrack is open for live racing or exercising. If the ambulance is being used to transport an individual, the association may not conduct a race or be open for training until the ambulance is replaced, and ready for immediate duty, to be placed at a readily available location to the racing strip, so that no time may be lost in answering calls. Unless otherwise approved by the Racing Commission or the stewards, an ambulance shall follow the mounted horses at a safe distance during the running of the race.

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

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

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

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

22.1.g. The association shall designate an office and suitable parking spaces for the exclusive use of the Racing Commission, its employees and representatives. The association shall offer sufficient office space for private consultation and necessary office equipment. The office shall be equipped with a telephone and shall also have sufficient space for secure, locked storage for Racing Commission records and supplies. The key to such storage shall be available only to the Racing Commission and/or the stewards. The association shall also provide sufficient office space for the Racing Commission license clerk(s), investigator(s), security officer(s) and any other Racing Commission personnel, as requested by the Racing Commission.

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

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

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

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

22.3.b. A camera or electronic photofinish device selected by the association conducting the meeting shall be approved by the Racing Commission and shall be used to make photographs or images of the horses at the finish to assist the placing judges in determining their positions as exclusively indicated by the noses

of the horses. On request by the Racing Commission, the association shall provide, without cost, photographs or images of a finish to the Commission or its representatives. Finish photographs or images of each race shall be maintained by the association for not less than one (1) month after the end of the race meeting, or such other period as may be requested by the stewards or the Racing Commission.

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

22.3.d. On all racetracks, the official photographer for the association shall be required to hold an occupational permit issued by the Racing Commission. In all cases when a still picture is taken by the official photographer, he or she shall direct his or her camera at a point away from the finish line unless otherwise approved by the stewards or the Racing Commission. No photographer, other than the official photographer, shall be permitted on the racetrack, unless permission is granted by the stewards or the Racing Commission; and then only for pictures that are specifically requested and in places as are approved by the stewards or the Racing Commission.

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

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

22.4.b. All potential obstructions shall be set back a minimum of ten (10) feet from the back of the inside rail. All existing obstructions, shall be moved back a minimum of ten (10) feet from the back of the rail and/or padded, as directed by the Racing Commission.

22.5. Starting Gates. Each racing association shall provide and maintain at least two operable padded starting gates on every race day of its meeting. Each association shall use every reasonable endeavor to have in attendance whenever the gates are in use, one or more individuals who are skilled and qualified to maintain the gates in good working order, and be available for periodic inspections of the starting gates as may be required by the Racing Commission.

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

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

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

22.6.b.1. 1/4 POLES -- Red and White;

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

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

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

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

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

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

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

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

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

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

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

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

22.8.d. The ambulance must be equipped with:

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

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

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

22.8.d.4. a padded interior;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§178-1-23. Operations.

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

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

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

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

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

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

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

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

23.2.b. No person shall:

23.2.b.1. smoke in stalls, feed rooms, under shed rows, on the track running surface or in any other “no smoking” area of the association’s grounds as identified by the association or the Racing Commission;

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

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

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

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

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

23.3. Performances. The following provisions apply to performances:

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

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

23.4. Posting of Jockey Insurance Coverage. The following provisions apply to the posting of jockey insurance coverage:

23.4.a. If an association carries insurance for the coverage of jockeys who are injured while on the grounds of the association, the association shall have on file with the Racing Commission a copy of the actual policy and post in the jockeys’ room the declaration page from such insurance policy and shall, upon the

request of any jockey who is participating in the race meeting, provide a copy of the policy of such insurance. Such request shall be made in writing to the person designated by the association to respond to such requests as specified in a notice posted with the declaration page.

23.4.b. In the event that the insurance policy is changed during the race meeting the association shall promptly notify the Racing Commission and post a notice of any such changes in the jockeys' room.

PART 5. ISSUANCE OF PERMITS AND DUTIES OF PERMIT HOLDERS.

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

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

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

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

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

24.1.d. Applicants for occupational permits may be required to provide fingerprints for examination by the West Virginia State Police Criminal Investigation Bureau and the Federal Bureau of Investigation. If the applicant has been fingerprinted by the Racing Commission or another racing jurisdiction within the previous thirty-six (36) months, then the Commission may accept the previous fingerprints or require new fingerprints. If fingerprints are required to be provided by an applicant, the applicant shall provide a signed authorization for the release of information by those the examining agencies. The costs of fingerprinting and fingerprint analysis shall be paid by the applicant.

24.1.e. The Commission may issue permits to persons holding valid permanent (not temporary) permits/licenses issued by racing jurisdictions in North America. The applicant must be in good standing in each jurisdiction where he or she holds or has held a racing permit/license; have cleared a Federal Bureau of Investigation or Royal Canadian Mounted Police fingerprint check within the previous thirty-six (36) months, or such other period as may required by the Racing Commission; file an application; and, pay the required applicable fees prior to participating in racing.

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

24.1.g. The Commission may assess an applicant or permit holder a credit card transaction fee in connection with the payment by credit card of any fees/costs under this subsection.

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

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

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

24.1.k. The filing of an application for a permit shall authorize the Racing Commission to examine and determine the immigration status of the applicant through the United States Department of Homeland Security, United States Citizenship and Immigration Services, or their successors.

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

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

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

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

24.3. Substance Abuse/Addiction.

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

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

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

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

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

24.3.b.4. Has in his or her possession on association grounds any equipment, products or materials of any kind which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing,

packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled dangerous substance;

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

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

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

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

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

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

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

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

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

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

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

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

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

24.4.a. The responsibility of obtaining an occupational permit for an employee rests with the employer. Employment of an individual without reporting the employment to the stewards and immediately obtaining an occupational permit for the employee may subject the employer's occupational permit to fine, suspension or other discipline.

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

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

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

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

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

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

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

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

24.7.a. ~~Every~~ Each occupational permit is for one (1) year ~~and expires on December 31 in the year in which it was issued;~~ unless otherwise approved by the stewards or the Racing Commission. Each permit shall be renewed according to the following schedule: Permits issued to persons whose date of birth is January 1 through and including April 30 shall be renewed no later than April 30 of each year; permits issued to persons whose date of birth is May 1 through and including August 31 shall be renewed no later than August 31 of each year; and permits issued to persons whose date of birth is September 1 through and including December 31 shall be renewed no later than December 31 of each year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24.11.d. has engaged in any fraud or misrepresentation in connection with racing, or breeding and/or pari-mutuel wagering;

24.11.e. has violated, or attempted to violate, or knowingly aided and abetted the violation of any law, rule, ruling or order with respect to racing in West Virginia or any other jurisdiction;

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

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

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

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

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

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

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

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

24.11.n. accepts or offers, directly or indirectly, any bribe, gift or gratuity in any form, which may influence the result of a race, or fails to report knowledge of this kind of activity immediately to the stewards or the Racing Commission; or

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

24.11.p. has knowingly, or without conducting proper due diligence, sold a horse for slaughter, directly or indirectly;

24.11.q. has abandoned, mistreated, abused, neglected or engaged in an act of cruelty to a horse;

24.11.r. has caused, attempted to cause, or participated in any way in an attempt to cause the pre-arrangement of a race result, or has failed to report knowledge of this kind of activity immediately to the stewards or the Racing Commission;

24.11.s. possesses on association grounds without the permission of the stewards any appliance or device, other than a riding crop allowed by this rule, which could be used to alter the speed of a horse in a race or workout;

24.11.t. has violated any of the provisions contained in subsection 24.3. of this rule pertaining to substance abuse/addiction;

24.11.u. has failed to return any purse money, trophies, or awards paid in error or ordered redistributed by the stewards and/or the Racing Commission;

24.11.v. has made a material misrepresentation in the process of registering, entering or racing a horse as West Virginia owned, West Virginia bred, or West Virginia sired;

24.11.w. has failed to pay a required fee, fine or cost;

24.11.x. possesses on association grounds a needle, syringe or other injectable except as allowed by subdivision 48.2.c. of this rule;

24.11.y. other than a practicing veterinarian, possesses on association grounds a medication, stimulant, sedative, depressant, local anesthetic or any other foreign substance prohibited by this rule;

24.11.z. manufactures, attempts to manufacture or possesses a false permit or other racing identification document/badge;

24.11.aa. tampers with or alters surveillance and/or security equipment and/or safety alarm/notification systems on association grounds;

24.11.bb. has hired a person as an employee who does not have an occupational permit and/or who is less than eighteen (18) years of age in violation of subsections 24.4.a. and 24.4.b. of this rule;

24.11.cc. has knowingly failed to disclose the complete ownership or beneficial interest in a horse entered to be raced;

24.11.dd. has misrepresented or attempted to misrepresent facts in connection with the sale of a horse or other matter pertaining to the racing or the registration of a thoroughbred;

24.11.ee. is a fugitive from justice; or

24.11.ff. has engaged in conduct unbecoming or detrimental to the best interests of racing.

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

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

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

24.13.b. Any person mounted on a horse or stable pony on the association racing surface, all assistant starters and anyone handling a horse in a starting gate must wear a safety vest at all times. The safety vest must comply with or exceed one of the following minimum standards: British Equestrian Trade Association (BETA): 2000 Level 1; Euro Norm (EN) 13158: 2000 Level 1; American Society for Testing and Materials (ASTM) F2681-08; Shoe and Allied Trade Research Association (SATRA) Jockey Vest Document M6 Issue 3; or, Australian Racing Board (ARB) Standard 1.1998.

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

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

24.14.b. A permit holder shall report to the Racing Commission or the stewards any knowledge, or reasonable cause to believe that, he or she has that a violation of the Commission's rules has occurred or may occur. A permit holder failing to do so, or who does not report all material details regarding the violation or potential violation, shall be subject to discipline by the stewards and/or the Racing Commission up to and including revocation of his or her permit.

§178-1-25. Owners.

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

25.1.a. Each person who has an a five percent (5%) or more ownership or beneficial interest in a horse is required to hold an occupational permit issued by the Racing Commission.

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

25.1.c. An applicant for an owner's permit shall own or lease a horse which is eligible to race and under the care of a trainer holding a permit issued by the Racing Commission. An owner shall notify the stewards of a change in trainer of his or her horse and shall obtain a notarized transfer certificate. Provided that a notarized transfer certificate shall not be required if the horse has not run within a sixty (60) day period or a period of sixty (60) days has passed since the horse last started at the subject racetrack.

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

25.2.a. If the legal owner of any horse is a partnership, corporation, limited liability company, syndicate or other association or entity, each shareholder, member or partner shall hold a permit as required by subdivision 25.1.a. of this rule.

25.2.b. Each partnership, corporation, limited liability company, syndicate or other association or entity shall disclose to the Racing Commission all owners holding a five percent (5%) or greater beneficial interest, unless otherwise required by the Racing Commission.

25.2.c. Each partnership, corporation, limited liability company, syndicate or other association or entity which includes an owner with less than a five percent ownership or beneficial interest shall file with the Commission an affidavit which attests that, to the best of their knowledge, every owner, regardless of ownership or beneficial interest, is not presently ineligible for a permit or suspended/revoked in any racing jurisdiction. If such affidavit is not provided or if it is determined that a person having an ownership or beneficial interest in a horse is ineligible for a permit or suspended/revoked in any racing jurisdiction, then the stewards or the Commission may refuse to issue occupational permits to the owners or suspend or revoke the owners' permits.

25.2.d. To obtain an owner's permit, an owner with less than a five percent (5%) ownership or beneficial interest in a horse shall establish a bona fide need for the permit and the issuance of such permit shall be approved by the stewards.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~25.3.f.~~ The part owner of any horse cannot assign his or her share, or any part of it, without the written consent of the other partners. The consent shall be filed with the Racing Commission and the association's racing secretary.

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

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

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

25.4: 25.3. Stable Name Registration. Owners and lessees holding an occupational permit may adopt a stable name subject to the approval of the Racing Commission. The following provisions apply to stable name registration:

25.4.a: 25.3.a. The applicant shall identify all persons using the stable name. Changes shall be reported immediately to the Racing Commission.

25.4.b: 25.3.b. A person who has registered a stable name may cancel it upon written notice to the Racing Commission.

25.4.c: 25.3.c. A stable name may be changed by registering a new stable name.

25.4.d: 25.3.d. A stable name which has been registered by any other person will not be approved by the Racing Commission.

25.4.e: 25.3.e. A stable name shall be clearly distinguishable from other registered stable names.

25.4.f: 25.3.f. The stable name and the name of the owner shall be published in the program.

25.4.g: 25.3.g. If the stable name consists of more than one person, the program shall list the name of the managing owner along with the phrase "*et al.*"

25.4.h: 25.3.h. All persons using a stable name shall comply with all rules regarding issuance of permits to owners.

25.5: 25.4. Racing Colors. The following provisions apply to racing colors:

25.5.a: 25.4.a. Owners or trainers shall provide racing colors which may be subject to the approval of the Racing Commission except at racetracks where colors are furnished by the association. Racing colors shall be registered with the association's racing secretary. The stewards may authorize a temporary substitution of racing colors when necessary.

25.5.b: 25.4.b. The racing colors to be worn by each jockey in a race shall be described in the program, and any change shall be announced to the public prior to the commencement of the race.

25.6: 25.5. Transfer of Ownership. The following provisions apply to transfer of ownership:

25.6.a: 25.5.a. If a horse is transferred by private sale or at public auction, the written acknowledgment of both parties is necessary to prove the fact that the horse was transferred with its engagements. The transfer of a horse under any circumstances to a non-eligible person shall not give that person the privilege of racing the horse.

25.6.b: 25.5.b. No horse entered in a race may be sold or transferred until after the race in which the horse is entered has been run unless otherwise permitted by the stewards.

25.6.c: 25.5.c. When a horse is sold with its engagements transferred, valid subscriptions, entries or rights of entry continue to exist with the surviving partners of a duly registered partnership in the event of the death of a partner, provided that the subscriptions, entries or rights of entry were made prior to the partner's death.

~~25.6.d.~~ 25.5.d. No person shall make or receive the transfer of a horse or engagement for the purpose of evading disqualification.

~~25.6.e.~~ 25.5.e. As long as an owner is in arrears with the horsemen's bookkeeper, no engagements can be transferred or accepted by him or her. No horse can be entered by an owner or under an owner's subscription until the owner is no longer in arrears.

~~25.6.f.~~ 25.5.f. When a seller fails to withdraw a horse from a race, when the engagement for that race is not sold or transferred with the horse, the purchaser may not start the horse or receive the stakes if the horse wins.

~~25.6.g.~~ 25.5.g. If a horse is sold or transferred with its engagements or any part of them, the seller cannot withdraw the horse from any engagements.

~~25.6.h.~~ 25.5.h. If a horse is sold to a disqualified person, the horse's racing engagements are void as of the date of sale.

~~25.6.i.~~ 25.5.i. If the ownership of a horse is changed through claiming or transfers, the association's racing secretary shall transfer the original registration certificate to the new owner or update the records of the new owner.

~~25.6.j.~~ 25.5.j. Any transfer of ownership or change of a trainer in a stake, handicap, futurity or other special event must occur at least thirty (30) days before the event unless the transferor and transferee can satisfy the board of stewards that the transfer of ownership or change of a trainer was, in fact, an arms length transaction and not for the purpose of evading the coupling rules or any other rule of racing.

~~25.7.~~ 25.6. Death of Owner. Subscriptions and all entries or rights of entry under them become void on the death of a subscriber, except in the case of a surviving partnership or except upon the approval of the stewards when the personal representative of an estate requests in writing that the benefits accrue to the estate of the decedent subscriber for the privilege of transfer, and agrees to assume any and all obligations incident to the original entries.

§178-1-26. Trainers.

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

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

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

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

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

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

26.1.b.4. a written and/or oral and/or practical skills examination administered by the stewards and/or their designee.

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

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

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

26.3.b. Each trainer shall register with the association's racing secretary and the association's security department every person under his or her supervision or employment.

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

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

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

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

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

26.3.h. Each trainer is responsible for personally attending to his or her horses in the paddock and supervising the saddling thereof. Provided that, a trainer may designate, or request that the stewards designate, another person holding a trainer or assistant trainer permit to perform such duties. Provided further that, such designee shall not have an interest in another horse in the race. A trainer who wishes to designate another trainer or assistant trainer or who wishes to have the stewards make such designation shall give oral or written notification to the stewards no later than one hour before post time.

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

26.3.j. Each trainer is responsible for being present following the running of the race to attend his or her horse or for delegating such responsibility to a designee provided for in subdivision 26.3.h. of this rule; to an employee holding an occupational permit; or, to the owner.

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

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

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

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

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

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

26.3.q. No trainer shall move or permit to be moved any horse or horses under his or her custody, care or control into the association's grounds without permission from the association's racing secretary or his or her designee. No trainer shall move or permit to be moved any horse or horses under his or her custody, care or control out of the association's grounds without first signing out the horse on a form prescribed by the association and made available at the stable gate: *Provided*, That, for all horses stabled on the association grounds, permission is required from the association's racing secretary or his or her designee at the time of removal if the horse is entered to race or may be entered to race at another racetrack for a period of seven (7) days following the day of its removal from the association's grounds. No trainer shall move or permit to be moved any horse or horses under his or her custody, care or control into the association's grounds without presenting a current negative Coggins test for equine infectious anemia (EIA).

26.3.r. No trainer shall withdraw any money from the horsemen's bookkeeper, either in his or her own name or that of an owner, nor may he or she contract obligations against the account of any owner or part owner, unless the trainer is the authorized agent of the owner or part owner; has been granted such authority as the authorized agent; and has an occupational permit allowing him or her to act as an authorized agent.

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

26.3.t. Each trainer shall notify the clocker prior to exercising a horse in a workout of the correct spelling of the horse's name and the distance to be worked.

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

§178-1-27. Owners' Authorized Agents.

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

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

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

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

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

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

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

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

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

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

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

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

§178-1-28. Jockeys.

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

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

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

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

racing personnel that they deem appropriate in determining the competence and ability of an individual applying for an occupational permit to act as a jockey.

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

28.1.d.1. the race has been specified as a designated race by the association's racing secretary before the inception of the race meeting at the association; or

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

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

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

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

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

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

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

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

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

28.2.b.1. an original, notarized contract between the apprentice and his or her employer, if a contract has been entered into;

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

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

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

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

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

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

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

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

28.2.h. No person may enter into a contract in West Virginia with an apprentice jockey unless he or she is the owner or trainer of a stable of horses, which would, in the opinion of the stewards, warrant his or her employment of an apprentice.

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

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

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

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

28.2.j.3. If an apprentice has ridden a total of forty (40) winners prior to the end of a period of one (1) year from the date of riding his or her fifth winner, he or she shall have an allowance of five (5) pounds until the end of that year.

28.2.k. If after one (1) year from the date of the fifth winning mount, the apprentice jockey has not ridden forty (40) winners, the applicable weight allowance shall continue for one (1) more year or until the fortieth winner, whichever comes first. But in no event may a weight allowance be claimed for more than two (2) years from the date of the fifth winning mount, unless an extension has been granted pursuant to this rule.

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

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

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

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

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

28.2.p.1. physical disablement or illness;

28.2.p.2. military service;

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

28.2.p.4. restriction on racing; or

28.2.p.5. other valid reasons.

28.2.q. To qualify for an extension, an apprentice jockey shall have been rendered unable to ride for a period of not less than seven (7) consecutive days during the period in which he or she was entitled to an apprentice allowance. Under exceptional circumstances, the stewards may consider total days lost collectively. An apprentice applying for an extension must produce documentation to the stewards verifying the time lost.

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

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

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

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

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

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

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

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

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

28.3.g. All engagements to ride, other than those for his or her contract employer, shall be made by him or her or his or her agent. The person making the engagements is responsible for the proper maintenance of the jockey's engagement book.

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

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

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

28.5. Jockey's Spouse. A jockey shall not compete or ride in any race against a horse which is owned, trained or ridden by the jockey's spouse. If a conflict arises between a jockey and the jockey's spouse as to who shall compete or ride in a race and no agreement can be reached as to which of them shall compete or ride, the stewards shall draw lots to resolve the conflict.

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

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

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

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

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

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

§178-1-29. Jockey Agents.

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

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

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

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

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

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

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

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

29.1.b. A jockey agent may not hold an occupational permit in any other capacity as long as he or she holds an agent's occupational permit, unless the stewards approve the additional occupational permit. A jockey agent or his or her spouse shall not be the owner or trainer of any race horse nor shall he or she have any interest in the ownership of a horse.

29.2. Limit on Contracts. A jockey agent may serve as agent for no more than two (2) journeymen jockeys, or one (1) journeyman jockey and one (1) apprentice jockey.

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

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

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

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

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

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

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

29.5.a. When any jockey agent withdraws from representation of a jockey, the jockey agent shall immediately notify the stewards and shall submit to the stewards a list of any unfulfilled engagements made for the jockey.

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

§178-1-30. Blacksmiths.

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

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

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

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

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

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

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

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

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

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

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

§178-1-31. Practicing Veterinarians.

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

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

31.2.a. All practicing veterinarians administering drugs, medications or other substances shall be responsible for ensuring that the drugs, medications or other substances and the veterinary treatment of horses are administered in accordance with this rule.

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

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

§178-1-32. Tip Sheet Vendor.

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

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

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

PART 6. CLAIMING RACING.

§178-1-33. Claiming Racing -- General Provisions.

33.1. A person entering a horse in a claiming race warrants that the title to such horse is free and clear of any existing claim or lien, either as security interest mortgage, bill of sale, or lien of any kind; unless before entering such horse, the written consent of the holder of the claim or lien has been filed with the horsemen's bookkeeper. A person may not claim ownership in a horse after the horse has run in a claiming race in the name of another person who, at the time of the race, had peaceable and undisputed possession of the horse.

33.2. Every horse claimed shall run in the interest and for the account of the owner who entered it in the race, but title to the claimed horse is vested in the successful claimant from the time the horse becomes a starter. The successful claimant shall become the owner of the horse, whether it is alive or dead, sound or unsound, or injured during the race or after the race.

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

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

§178-1-34. Claiming of Horses.

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

34.1.a. occupational permit holder in good standing;

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

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

§178-1-35. Claim Certificate.

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

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

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

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

§178-1-36. Prohibitions.

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

36.2. An authorized agent, although representing more than one eligible claimant, shall not submit more than one (1) claim in any race.

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

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

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

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

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

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

§178-1-37. Procedure for Claiming.

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

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

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

37.2.b. accurately complete a written claim on a form approved by the stewards and which shall include an affidavit in which the claimant certifies that he or she is claiming the horse for his or her own account or as an authorized agent, and not for any other person;

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

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

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

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

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

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

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

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

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

§178-1-38. Transfer of Claimed Horses.

38.1. Upon a successful claim, the stewards shall issue an authorization of transfer of the horse from the original owner to the claimant. Copies of the transfer authorization shall be forwarded to and maintained by the stewards and the association's racing secretary. Upon notification by the stewards, the horsemen's bookkeeper shall immediately debit the claimant's account for the claiming price, applicable taxes and transfer fees.

38.2. A person shall not refuse to deliver a properly claimed horse to the successful claimant. If a person refuses to deliver a properly claimed horse, the stewards may prevent the horse claimed from racing, and may prevent all other horses owned or trained by that person from racing, until delivery is made.

38.3. Transfer of possession of a claimed horse shall take place immediately after the race has been run by the delivery of the horse to the claimant in the paddock, unless otherwise directed by the stewards. However, if the horse is required to be taken to the test barn for post-race testing, the original trainer or his/her designee shall maintain physical custody of the claimed horse; shall observe the testing procedure; shall sign the official form as witness to the taking of the specimen; and, shall, upon the release of the horse by the Racing Commission veterinarian or his or her designee, transfer possession of the claimed horse to the claimant. The successful claimant or his or her designee may also accompany the horse to the test barn for post-race testing.

38.4. When a horse is claimed out of a claiming race, the horse's engagements are transferred, with the horse, to the claimant.

38.5. Any horse claimed shall not be sold or transferred, wholly or in part thereof, to anyone for thirty (30) days except in another claiming race. The horse shall not remain in the same barn or under the control or

management of its former owner or trainer for thirty (30) days, unless reclaimed, nor shall it race outside of the state of West Virginia for a period of sixty (60) days, except for stakes races and special events, or unless special permission is granted by the stewards.

PART 7. RULES OF THE RACE.

§178-1-39. Entries and Nominations.

39.1. Entries. The following provisions apply to entries:

39.1.a. A horse shall not be qualified to start in any race unless the horse has been entered and is continues to qualifyied at the time of starting for the race in which it has been entered.

39.1.b. No person shall willfully enter, or cause to be entered, or start a horse in a race, when he or she knows or believes the horse to be ineligible or disqualified.

39.1.c. A person who does not have an interest in a horse that is at least equal to the ownership interest of any other individual owner may not enter the horse in a race as the owner.

39.1.d. One (1) or more of the owners of a horse may make joint subscriptions and entries. However, each owner is jointly and separately liable for all fees.

~~39.1.e. Maidens two (2) years old and up may start in West Virginia.~~

~~39.1.f.~~ 39.1.e. A horse must be eligible at the time of starting.

~~39.1.g.~~ 39.1.f. No horse owned by a partnership multiple owners shall be permitted to enter or to start until the owners have complied with rules for the registration of the partnership permitting of multiple owners as set forth in subsection ~~25.3.~~ 25.2. of this rule.

~~39.1.h.~~ 39.1.g. If the association's racing secretary receives an entry from any disqualified person or a disqualified horse, the entry is void and any money paid for that entry shall be returned if the disqualification is disclosed forty-five (45) or more minutes before post time for the race. Otherwise, any money shall be paid to the winner.

~~39.1.i.~~ 39.1.h. The association's racing secretary shall not accept an entry from spouses while either is disqualified from racing. For the purpose of this rule, spouses shall be considered as one.

39.2. Procedure. The following provisions apply to the procedure for entries:

39.2.a. For all races, the association's racing secretary or his or her assistants are authorized to receive entries.

39.2.b. Entries shall be made in writing, by telephone, by facsimile or by electronic means approved by the Racing Commission. Each association shall provide blank forms on which written entries may be made. Upon the request of the association's racing secretary or the stewards, any entry not made in writing shall be confirmed in writing.

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

39.2.d. When a horse is entered, it must be clearly identified by stating its age, sex, name, color, and the names of its sire and dam.

39.2.e. The stewards may refuse an entry of any person, or the transfer of any entry, with notice and the reason given.

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

39.2.g. The association's racing secretary shall immediately compile and conspicuously display the number of entries upon the closing of all overnight races.

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

39.3. Coupled Entries. The following provisions apply to coupled entries:

39.3.a. Two (2) or more horses which are entered in a race shall be joined as a mutual entry and constitute one (1) betting interest if they are owned or leased in whole or in part by the same owner or are trained by a trainer who owns or leases any interest in any of the other horses in a race, except that such entries may be uncoupled in stakes races, futurities or other special events.

39.3.b. No more than two (2) horses having common ties through ownership or training may be entered in an overnight race. Under no circumstances may both horses of a coupled entry start to the exclusion of a single entry. When making a coupled entry, a preference for one (1) of the horses must be made.

39.3.c. In the event of disqualification of any part of a coupled entry, it shall be in the discretion of the stewards whether the disqualification shall extend to all or any other part of the coupled entry.

39.3.d. In a stakes race, futurity or other special event, any two (2) or more horses entered that are owned in whole or in part by the same owner or trained by the same trainer shall be given an equal draw according to the eligibility conditions of the race.

39.3.e. In any race ordered split by the association's racing secretary into two (2) or more divisions, horses coupled pursuant to subdivisions 39.3.a. and 39.3.b. of this subsection shall be seeded in separate divisions and uncoupled.

39.4. Closings. The following provisions apply to the closing of entries:

39.4.a. The association's racing secretary shall close all entries at an advertised time with no entry accepted thereafter. The association's racing secretary, however, may postpone closing or filling of overnight races. Provided that, if the association's racing secretary postpones the closing or filling of one or more overnight races past the advertised time, he or she shall postpone the closing or filling of all other overnight races until the same time.

39.4.b. For futurity races, if a horse is not named through the entry box at the published time of closing, the horse shall be denied entry.

39.4.c. No races shall be drawn or cancelled until such time as all races comprising the racing card have been filled.

39.5. Number of Starters in a Race. The following provisions apply to the number of starters in a race:

39.5.a. The maximum number of starters in any race shall be limited to the number of starting positions afforded by the association starting gate and its extensions. The number of starters may be further limited by the number of horses which, in the opinion of the stewards, can be afforded a safe, fair and equal start.

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

39.6. Split or Divided Races. The association's racing secretary may split or divide any overnight race.

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

39.8. Also-Eligible List. The following provisions apply to the also-eligible list:

39.8.a. If the number of entries for a race exceeds the number of horses permitted to start, the association's racing secretary may create and post an also-eligible list.

39.8.b. If any horse is scratched from a race for which an also-eligible list was created, a replacement horse shall be drawn from the also-eligible list into the race in order of preference.

39.8.c. Any owner or trainer of a horse on the also-eligible list who does not wish to start the horse in such race shall so notify the association's racing secretary prior to scratch time for the race, thereby forfeiting any preference to which the horse may have been entitled.

39.8.d. A horse which draws into a straightaway race from the also-eligible list shall start from the post position vacated by the scratched horse. In the event more than one horse is scratched, post positions of horses drawing in from the also-eligible list shall be determined by public lot.

39.8.e. ~~A horse~~^{Horses} which draws into a non-straightaway race from the also-eligible list shall start from the outermost post positions. ~~In the event more than one horse is scratched, post positions of horses drawing in from the also-eligible list shall be determined by public lot.~~

39.8.f. If a horse is on the also-eligible list and is selected on a subsequent race day, the horse is an automatic scratch or elimination from the eligible list the first day.

39.9. Preferred List. The association's racing secretary shall maintain a list of entered horses eliminated from starting by a surplus of entries, and these horses shall constitute a preferred list and have preference. The manner in which the preferred list shall be maintained and all rules governing such list shall be the responsibility of the association's racing secretary. Such rules must be submitted to the Racing Commission thirty (30) days prior to the commencement of the race meeting and are subject to the approval of the Commission.

§178-1-40. Naming of Riders.

40.1. Owners and/or trainers shall name their jockeys no later than scratch time of that race.

40.2. Any change of a jockey after scratch time of a race must be sanctioned by the stewards and shall be promptly and publicly displayed and announced.

§178-1-41. Declarations and Scratches.

41.1. Declarations. The following provisions apply to declarations:

41.1.a. A declaration is the act of withdrawing an entered horse from a race prior to the closing of entries.

41.1.b. The declaration of a horse from a race is irrevocable.

41.1.c. If the miscarriage of any declaration by mail or otherwise is alleged, satisfactory proof of the miscarriage is required of the complainant. Otherwise, the declaration shall not be accepted.

41.2. Scratches. The following provisions apply to scratches:

41.2.a. A scratch is the act of withdrawing an entered horse from a contest after the closing of entries.

41.2.b. A scratch of a horse from a race is irrevocable.

41.2.c. No horse shall be considered to be scratched from a race until the trainer or his or her designee notifies the association's racing secretary within the prescribed time period established by the association.

41.2.d. Scratches from stakes races shall close four (4) hours before post time for that race, unless otherwise approved by the stewards.

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

41.2.f. A recommendation from a Racing Commission veterinarian to scratch a horse shall be given to the stewards and shall be used only as an aid in determining whether a scratch shall be approved.

§178-1-42. Weights.

42.1. Allowances. The following provisions apply to weight allowances:

42.1.a. A weight allowance must be claimed at time of entry and shall not be waived after the posting of entries, except by consent of the stewards.

42.1.b. A horse shall start with only the allowance of weight to which it is entitled at time of starting, regardless of its allowance at time of entry.

42.1.c. Horses not entitled to the first weight allowance in a race shall not be entitled to any subsequent allowance specified in the conditions.

42.1.d. A claim of weight allowance to which a horse is not entitled shall not disqualify it unless a protest is made in writing and lodged with the stewards at least one (1) hour before post time for that race.

42.1.e. A horse shall not be given a weight allowance for failure to finish second or lower in any race.

42.1.f. No horse shall receive an allowance of weight nor be relieved extra weight for having been beaten in one (1) or more races, but this rule shall not prohibit maiden allowances or allowances to horses that have not won a race within a specified period or a race of a specified value.

42.1.g. Except in handicap races which expressly provide otherwise, two (2) year old fillies shall be allowed three (3) pounds, and fillies and mares, three (3) years old and upward, shall be allowed five (5) pounds before September 1 and three (3) pounds thereafter in races where competing against male horses.

42.2. Penalties. The following provisions apply to weight penalties:

42.2.a. Weight penalties are obligatory.

42.2.b. Horses incurring weight penalties for a race shall not be entitled to any weight allowance for that race.

42.2.c. No horse shall incur a weight penalty or be barred from any race for having been placed second or lower in any race.

42.2.d. Penalties incurred and allowances due in steeplechase or hurdle races shall not apply to races on the flat, and vice versa.

42.2.e. The reports, records and statistics as published by the Daily Racing Form, Equibase or other recognized publications shall be considered official in determining eligibility, allowances and penalties, but may be corrected.

42.2.f. For determining weight penalties and allowances for horses that have previously won or placed in Graded or Group races, penalties in the race conditions will only apply to Graded or Group races in Part I countries as recognized in the International Catalogue Standards (ICS) book.

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

42.3. Scale of Weights. The following provisions apply to the scale of weights:

42.3.a. With the exception of apprentices allowances, handicap races, three (3) year old horses entered to run in races against horses four (4) years old and upwards, and the allowance provided in subdivision 42.3.b., no jockey shall be assigned a weight of less than one hundred sixteen (116) eighteen (118) pounds. For three (3) year old horses entered to run in races against horses four (4) years old and upwards from January 1 through August 31, no jockey shall be assigned a weight of less than one hundred sixteen (116) pounds.

42.3.b. Except in handicaps, fillies two (2) years old shall be allowed three (3) pounds, and fillies and mares three (3) years old and upward shall be allowed five (5) pounds before September 1, and three (3) pounds thereafter in races where competing against horses of the opposite sex.

~~42.3.b.~~ 42.3.c. A notice shall be included in the daily program that lists the weight to be carried by each horse as established by the association's racing secretary and that notifies the public that jockeys may carry approximately three (3) pounds more than the published weight to account for safety equipment (vest and helmet) that is not included in required weighing out procedures. Additionally, the public shall be notified in the daily program that upon the stewards' approval, jockeys may weigh in with an additional three (3) pounds for inclement weather gear.

§178-1-43. Workouts.

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

43.2. Identification. The following provisions apply to the identification requirements for workouts:

43.2.a. An occupational permit holder exercising a horse in a workout shall identify the horse at the request of the clocker.

43.2.b. An occupational permit holder exercising a horse in a workout shall, upon request of the clocker, identify the distance the horse is to be worked and the point on the track where the workout will start.

43.2.c. An occupational permit holder wishing to exercise a horse on the racing strip between races shall obtain permission from the stewards and the track superintendent. When a horse is being warmed up or exercised between races, a public announcement shall be made giving the name of the horse and explaining its presence on the racing strip.

§178-1-44. Horses Ineligible.

A horse is ineligible to start in a race when:

44.1. its breed registration certificate is not on file with the association's racing secretary one-half (½) hour before post time for the first race; the stewards may waive this requirement if the information contained on the registration certificate is otherwise available and the horse is otherwise correctly identified to the stewards' satisfaction; provided that the stewards shall not waive this requirement if the horse is scheduled to start in a claiming race.

44.2. its name has been changed and it has not been issued a new registration certificate by the appropriate breed registry;

44.3. it is not fully identified and is tattooed on the inside of the upper lip, is microchipped with a unique microchip (ISO 11784), freeze brand or identified by any other method approved by the appropriate breed registry and the Racing Commission;

44.4. the owner of the horse is in financial arrears; except with the approval of the association's racing secretary or the stewards;

44.5. it is owned in whole or in part by an undisclosed person or interest;

44.6. it is not in sound racing condition;

44.7. it has been trachea tubed to artificially assist breathing;

44.8. it has been nerved; except as provided for in this rule;

44.9. it has impaired eyesight in both eyes, as determined by a Racing Commission veterinarian;

44.10. it is under two (2) years of age;

~~44.10:~~ 44.11. it is thirteen (13) years of age or older;

~~44.11:~~ 44.12. it is owned by an owner and/or supervised by a trainer who do not hold occupational permits issued by the Racing Commission;

~~44.12:~~ 44.13. it is owned, in whole or in part, or is under the care and control of a person who is excluded by the stewards or the association or suspended by the stewards; provided that, when the person has been reinstated to the racetrack by the association or the stewards, or the person's suspension has been rescinded or has expired, or the horse has been transferred through a bona fide sale to an owner acceptable to and approved by the stewards or the Racing Commission, the horse may be eligible to start in a race;

~~44.13:~~ 44.14. at the time of starting of the race it is on the stewards' list, the paddock judge's list, the starter's list, the veterinarians' list or the bleeder list;

~~44.14:~~ 44.15. it has been removed from starting due to sickness or physical disability and therefore is ineligible to start for a minimum of ten (10) calendar days, exclusive of the day of the horse's removal; provided that at the expiration of the minimum ten (10) day period, the stewards may allow a horse to start in a race if the entry is accompanied by a written certificate of fitness from a Racing Commission veterinarian;

~~44.15:~~ 44.16. if the horse is a mare who is or who may be in foal, unless full information as to services or breeding has been filed with the association's racing secretary and the owner's practicing veterinarian has given approval; provided that if a mare who is or who may be in foal is permitted to start in a race under this subsection, the breeding information and the practicing veterinarian's approval shall be conspicuously posted in the association's racing secretary's office and if the mare is claimed, the original owner shall supply the stallion service certificate to the new owner that has claimed the horse;

~~44.16:~~ 44.17. there is no current negative test certificate for Equine Infectious Anemia (EIA) attached to its breed registration certificate or proof of a negative test certificate is not otherwise available; and

~~44.17:~~ 44.18. it has shoes (racing plates) which have toe grabs with a height greater than four millimeters (0.15748 inches), bends, jars, caulks, stickers or any other traction device on the front hooves while racing or training on dirt racing surfaces. Provided that, for any race in this state that has been issued a grade by the American Graded Stakes Committee, the stewards may allow the toe grab rule established by the American Graded Stakes Committee to be followed in that race. The association shall notify the Racing Commission and the stewards upon the issuance of a grade for a race by the American Graded Stakes Committee so that the stewards may allow the appropriate toe grab rule to be administered and enforced. A copy of the toe grab rule in graded stakes races shall be published in the office of the association's racing secretary.

§178-1-45. Running of the Race.

45.1. Equipment. The following provisions apply to the equipment used in connection with the running of a race:

45.1.a. All riding crops are subject to approval and enforcement by the stewards and inspection by the clerk of scales and shall meet the following requirements:

45.1.a.1. Riding crops shall have a shaft and a flap and will be allowed in racing and training, only as follows:

45.1.a.1.A. Maximum weight of eight ounces;

45.1.a.1.B. Maximum length, including flap, of thirty (30) inches;

45.1.a.1.C. Minimum diameter of the shaft of ~~one-half (1/2)~~ three-eighths (3/8) inch; and

45.1.a.1.D. Shaft contact area must be smooth, with no protrusions or raised surface, and covered by shock absorbing material.

45.1.a.2. The flap is the only allowable attachment to the shaft and must meet these specifications:

45.1.a.2.A. Length beyond the end of the shaft a maximum of one (1) inch;

45.1.a.2.B. Width a minimum of eight-tenths (0.8) of an inch and a maximum of one and six-tenths (1.6) inches;

45.1.a.2.C. No reinforcement or additions beyond the end of the shaft;

45.1.a.2.D. No binding within seven (7) inches of the end of the shaft; and

45.1.a.2.E. Shock absorbing characteristics similar to those of the contact area of the shaft.

45.1.b. No bridle shall exceed two (2) pounds.

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

45.1.d. The starter shall give permission to add blinkers to a horse's equipment or to discontinue the use of blinkers.

45.1.e. Riding crops and/or blinkers may be used on two (2) year olds as well as other first time starters if schooled or reviewed by the starter with the riding crops and/or blinkers, and approved by the starter and the stewards before time of entry.

45.1.f. A horse's tongue may be tied down with clean bandages, gauze or tongue strap. Under no circumstances shall the material to be used as a tongue-tie be furnished by anyone other than the trainer of the horse on which it is to be used. No employee of the association may tie the tongue, replace, or repair a tongue-tie.

45.1.g. The stewards or their designee may give permission during the current meeting for any change of equipment from that which a horse carried in its previous race.

45.1.h. A horse starting in a race shall not be shod with ordinary or training shoes, nor shall the horse run without shoes unless by permission of the stewards and after announcement to the public.

45.1.i. Horseshoes on which the trailing portion of the shoe is turned down are prohibited at licensed racetracks in West Virginia.

45.2. Racing Numbers. The following provisions apply to racing numbers:

45.2.a. Each horse shall carry a conspicuous saddle cloth number corresponding to the official number given that horse on the official program.

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

45.2.c. In the case of a coupled entry that includes more than one horse, each horse in the entry shall carry the same number, with a different distinguishing letter following the number. As an example, two horses in the same entry shall appear in the official program as 1 and 1A.

45.2.d. Each horse in the mutuel field shall carry a separate number or may carry the same number with a distinguishing letter following the number.

45.3. Jockey Requirements. The following provisions apply to requirements imposed upon jockeys in connection with the running of a race:

45.3.a. In riding a race, a jockey shall be neat in appearance and the judgment of the stewards controls in this regard. A jockey shall dress in jockey attire including, cap, jacket, white or light breeches and top boots. A jockey's first name and/or middle name and/or surname, or initials representing the first letters of the jockey's first name and/or middle name and/or surname, may be printed on the side of a jockey's breeches in black lettering not to exceed thirty-two (32) square inches. The names(s) or initials on a jockey's breeches must be those of the jockey wearing the breeches.

45.3.b. A jockey must wear a safety vest when riding in an official race. The safety vest must comply with or exceed one of the following minimum standards: British Equestrian Trade Association (BETA): 2000 Level 1; Euro Norm (EN) 13158: 2000 Level 1; American Society for Testing and Materials (ASTM) F2681-08; Shoe and Allied Trade Research Association (SATRA) Jockey Vest Document M6 Issue 3; or, Australian Racing Board (ARB) Standard 1.1998.

45.3.c. A jockey must wear a safety helmet when riding in an official race. A jockey is responsible for providing sufficient evidence that his/her helmet meets or exceeds one of the following safety standards: American Society for Testing and Materials (ASTM 1163); UK Standards (EN-1384 and PAS-015); or, Australian/New Zealand Standard (AS/NZ 3838).

45.3.d. A jockey shall wear the colors of the owner or owners of the horse he or she is riding, unless otherwise approved by the stewards and a jockey shall have a number on the saddlecloth of his mount corresponding to the number of the horse as exhibited in the official program.

45.4. Jockey Advertising. The following provisions apply to jockey advertising:

45.4.a. A jockey shall not wear advertising or promotional material of any kind (whether for a nonprofit or for-profit entity) on clothing within one (1) hour of or during a race, unless:

45.4.a.1. The material advertises or promotes the Jockeys' Guild in the form of the picture of a jockey's boot or the picture of a wheelchair, with no additional picture or logo;

45.4.a.2. The material is the Permanently Disabled Jockeys Fund logo, with no additional picture or logo; or

45.4.a.3. The picture or logo has previously been approved by the current owner, the association, and the stewards under the process set forth in this subsection, and this approval is reflected in the Racing Commission's official records; and

45.4.a.4 The material complies with the size restrictions of subparagraphs 45.4.b.2.A., 45.4.b.2.B. and 45.4.b.2.C. of this subsection; or the following criteria are met:

45.4.a.4.A. The material meets the advertising standards listed in subdivision 45.4.b. of this subsection; and

45.4.a.4.B. The jockey obtains the written approval established in subdivision 45.4.d. of this subsection.

45.4.b. Advertising or promotional material displayed on jockey clothing shall:

45.4.b.1. Not compete with, conflict with, or infringe upon sponsorship agreements applicable to the racing association race or to the race meet in progress; and

45.4.b.2. Comply with the following size restrictions;

45.4.b.2.A. A maximum of thirty-two (32) square inches on each thigh of the pants on the outer side between the hip and knee and ten (10) square inches on the rear of the pant at the waistline at the base of the spine;

45.4.b.2.B. A maximum of twenty-four (24) square inches on boots and leggings on the outside of each nearest the top of the boot; and

45.4.b.2.C. A maximum of six (6) square inches on the front center of the neck area (on a turtleneck or other undergarment).

45.4.c. A sponsorship shall not be permitted by a person or entity whose message, business reputation, or ongoing business activity may be considered as obscene or indecent to a reasonable person.

45.4.d. For advertising or promotional material addressed in subparagraphs 45.4.a.4.A. and 45.4.a.4.B. of this subsection, approval in writing of all three (3) of the following shall be required:

45.4.d.1. The managing owner of the horse, or the owner's authorized agent;

45.4.d.2. The licensed racing association, which shall grant approval if it reasonably determines the material meets the standards in paragraph 45.4.b.1. of this subsection; and

45.4.d.3. The stewards, who shall grant approval if they reasonably determine the material meets the standards in paragraph 45.4.b.2. and subdivision 45.4.c. of this subsection.

45.4.e. Written approval for advertising and promotional material shall be evidenced by completion and return of the "Request to Wear Advertising and Promotional Materials" set forth in table 178-1C at the end of this rule. The form shall be completed and submitted to the stewards not later than a time designated by the stewards.

45.4.f. As a condition for approval of advertising or promotional material, either the owners, the stewards, or the licensed racing association may require a personal viewing of the proposed material as it is to be displayed, to determine that the requirements of this subsection are met.

45.4.g. This rule shall not prohibit the sponsor of a licensed racing association race or race meeting from displaying advertising or promotional material on an association saddlecloth if it does not interfere with the clear visibility of the number of the horse.

45.4.h. Advertising content other than that approved in this rule shall not be permitted.

45.5. Weighing Out. The following provisions apply to weighing out:

45.5.a. The clerk of scales shall weigh out each jockey for his or her respective horses in each race not less than twenty (20) minutes before the time fixed for the race, unless otherwise authorized by the stewards. In case of substitution of a rider after the original rider has been weighed out, the substitute rider shall be weighed out as promptly as possible and the name of the substitute and his or her weight publicly announced and displayed.

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

45.5.c. No jockey may carry overweight in excess of two (2) pounds without the consent of the owner or trainer and no jockey shall be allowed to ride more than five (5) pounds overweight.

45.5.d. Any overweight shall be declared by a jockey to the clerk of scales at the time appointed in advance of a race. The clerk of scales shall report to the stewards any failure on the part of any jockey to comply with this subdivision.

45.5.e. The clerk shall have all jockey overweights displayed and/or announced publicly and any change in the amount of an overweight after the jockey's declaration pursuant to subdivision 45.5.d., shall be displayed and/or announced publicly.

45.5.f. If any underweight is discovered after wagering has commenced and before the actual start of the race, the horse shall be returned to the paddock and the weight shall be corrected and announced publicly.

45.5.g. The association shall provide the only attendants who may assist jockeys in weighing out. The attendants must hold an occupational permit issued by the Racing Commission.

45.5.h. A jockey's weight shall include his or her clothing, boots, saddle and its attachments and any other equipment except the bridle, bit, blinkers, goggles, number cloth and safety equipment including helmet, vest, over-girth, reins and breast collar.

45.5.i. A jockey shall ride a race with the same clothing, boots, saddle and its attachments, and any other equipment not excepted from the jockey's weight under subdivision 45.5.h., that the jockey had on or had in his or her possession when the jockey weighed out for that race.

45.5.j. Upon the stewards' approval, jockeys may be allowed up to three (3) pounds more than published weights for inclement weather clothing and equipment.

45.6. Paddock to Post. The following provisions apply to paddock to post activities:

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

45.6.b. The post parade shall not exceed twelve (12) minutes, except in cases of unavoidable delay. Horses shall be allowed to break formation and canter, warm up, or go as they please to the post, unless otherwise directed by the stewards. Horses shall start without unnecessary delay once they have reached the post.

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

45.6.d. If a jockey is injured on the way to the starting gate so as to require another jockey for his or her replacement, the horse shall be taken to the paddock and re-mounted with a replacement jockey who shall ride over the uncompleted portion of the route of the parade to the starting gate.

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

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

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

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

45.6.i. No person, other than the rider, starter, or assistant starter shall be permitted to assist a horse in obtaining a start.

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

45.7. Post to Finish.

45.7.a. The following provisions apply to the start of a race:

45.7.a.1. The starter is responsible for assuring that each participant receives a fair start.

45.7.a.2. If the stewards suspect a false start has occurred, they shall post the inquiry sign and may disqualify the horse(s), declare it a non-starter, or take no action.

~~45.7.a.2.~~ 45.7.a.3. If, for any reason, the doors in front of any stall in a mechanical or electrically operated gate fail 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 mutual field.

45.7.b. The following provisions apply to interference, jostling or striking:

45.7.b.1. A jockey shall not ride carelessly or willfully so as to permit his or her mount to interfere with, impede or intimidate any other horse in the race.

45.7.b.2. No jockey shall carelessly or willfully jostle, strike or touch another jockey or another jockey's horse or equipment.

45.7.b.3. No jockey shall unnecessarily cause his or her horse to shorten its stride or engage in other actions so as to give the appearance of having suffered a foul.

45.7.c. The following provisions apply to maintaining a straight course:

45.7.c.1. When the way is clear in a race, a horse may be ridden to any part of the course, but if any horse swerves, or is ridden to either side, so as to interfere with, impede or intimidate any other horse, it is a foul.

45.7.c.2. The offending horse may be disqualified, if in the opinion of the stewards, the foul altered the finish of the race, regardless of whether the foul was accidental, willful or the result of careless riding.

45.7.c.3. If the stewards determine the foul was intentional, or due to careless riding, the jockey may be held responsible and his or her occupational permit may be disciplined.

~~45.7.c.4. In a straightaway race, every horse must maintain position as nearly as possible in the lane in which it starts. If a horse is ridden, drifts or swerves out of its lane in such a manner that it interferes with, impedes or intimidates another horse, it is a foul and may result in the disqualification of the offending horse.~~

45.7.d. The following provisions apply to disqualification:

45.7.d.1. When the stewards determine that a horse shall be disqualified for interference, they may place the offending horse behind such horses as in their judgment it interfered with, or they may place it last.

45.7.d.2. If a horse is disqualified for a foul, any horse or horses in the same race owned or trained by the same interests, whether coupled or uncoupled may also be disqualified.

45.7.d.3. Possession of any electrical or mechanical stimulating or shocking device by a jockey, horse owner, trainer or other person authorized to handle or attend to a horse shall be prima facie evidence of a violation of this rule and is sufficient grounds for the stewards to scratch or disqualify the horse.

45.7.d.4. Should the stewards determine that there is more than one (1) incident of interference in a race where disqualification is warranted, the stewards shall deal with the incidents in the order in which the incidents occurred during the race from start to finish; except in the case where the same horses are involved in multiple incidents. Once a horse has been disqualified, it should remain placed behind the horse

with which it interfered. The stewards shall make a conscious effort to place and maintain as placed, every and all horses placed behind others for interference.

45.7.e. All horses shall be ridden out past the finish line in every race. A jockey shall not ease up or coast to the finish, without reasonable cause, even if the horse has no apparent chance to win prize money. A jockey shall give a best effort during a race, and each horse shall be ridden to win.

45.7.f. The following provisions apply to the use of a riding crop:

45.7.f.1. Although the use of a riding crop is not required, any jockey who uses a riding crop during a race shall do so only in a manner consistent with exerting his or her best efforts to win.

45.7.f.2. No electrical or mechanical device or other expedient designed to increase or retard the speed of a horse, other than the riding crop approved by the stewards, shall be possessed by anyone, or applied by anyone to the horse at any time on the grounds of the association during the meeting, whether in a race or otherwise.

45.7.f.3. Riding crops may be used on two (2) year olds, as well as other first time starters, if schooled or reviewed by the starter with the riding crop and approved by the starter and the stewards before the time of entry.

45.7.f.4. The riding crop shall only be used for safety, correction and encouragement.

45.7.f.5. All riders shall comply with the following when using a riding crop:

45.7.f.5.A. Showing the horse the riding crop and giving it time to respond before hitting it;

45.7.f.5.B. Having used the riding crop, giving the horse a chance to respond before using it again;

45.7.f.5.C. Using the riding crop in rhythm with the horse's stride.

45.7.f.6. Prohibited use of the riding crop includes, but is not limited to, striking a horse:

45.7.f.6.A. on the head, flanks or on any other part of its body other than the shoulders or hind quarters except when necessary to control a horse;

45.7.f.6.B. during the post parade or after the finish of the race except when necessary to control the horse;

45.7.f.6.C. excessively or brutally causing welts or breaks in the skin;

45.7.f.6.D. when the horse is clearly out of the race or has obtained its maximum placing;

45.7.f.6.E. persistently even though the horse is showing no response under the riding crop;
or

45.7.f.6.F. striking another rider or horse.

45.7.f.7. After the race, horses may be subject to inspection by a Racing Commission veterinarian looking for cuts, welts or bruises in the skin. Any adverse findings shall be reported to the stewards.

45.7.f.8. The giving of instructions by any permit holder that if obeyed would lead to a violation of this subdivision may result in disciplinary action also being taken against the permit holder who gave such instructions.

45.7.g. If a horse leaves the racing strip after the start, the stewards shall disqualify the horse.

45.7.h. If a horse becomes incapacitated during the running of the race or is otherwise unable to finish, best efforts shall be made to dismount, unsaddle and remove the horse from the racing strip without passing the public stands. Further, the horse shall not be euthanized on the racing strip in the direct view of the public unless authorized by a Racing Commission veterinarian or his or her designee.

45.7.i. If a horse is in distress, it shall remain on the racing strip until a Racing Commission veterinarian and the equine ambulance arrive and remove the horse.

45.7.j. During the running of the race, the stewards shall exclude all unauthorized persons from the racing strip.

45.7.k. The following provisions apply to the order of finish:

45.7.k.1. The official order of finish shall be decided by the placing judges with the aid of the photo finish system, and in the absence of the photo finish film record, the video replay. The photo finish and video replay are only aids in the placing judges' decision. The decision of the placing judges shall be final in all cases.

45.7.k.2. The nose of the horse shall determine the placement of the horse in relationship to other horses in the race.

45.7.l. The following provisions apply to returning after the finish:

45.7.l.1. After a race has been run, the jockey shall ride promptly to the place designated by the stewards, dismount and report to the clerk of scales to be weighed in. Jockeys shall weigh in with all pieces of equipment with which they weighed out.

45.7.l.2. If a jockey is prevented from riding to the designated unsaddling area because of an accident or illness to the jockey or the horse, the jockey may walk or be transported to the scales, or may be excused from weighing in by the stewards.

45.7.m. The following provisions apply to unsaddling:

45.7.m.1. Only persons authorized by the stewards may assist the jockey with unsaddling the horse after the race.

45.7.m.2. No one shall place a covering over a horse before it is unsaddled and the jockey has removed the equipment that is to be included in his or her weight.

45.7.n. The following provisions apply to weighing in:

45.7.n.1. A jockey shall weigh in at no less than the same weight at which he or she weighed out, and if under that weight, and after consideration of mitigating circumstances by the stewards, his or her mount may be disqualified from any portion of the purse money.

45.7.n.2. In the event of such disqualification, all monies wagered on the horse shall be refunded unless the race has been declared official.

45.7.n.3. A jockey's weight shall include clothing, boots, saddle and its attachments and any other equipment except the bridle, bit, blinkers, number cloth and over-girth, reins and breast collar.

45.7.n.4. Upon approval of the stewards, jockeys may be allowed up to three (3) pounds more than published weights to account for inclement weather clothing and equipment.

45.7.n.5. The post-race weight of a jockey includes any sweat, dirt and mud that may have accumulated on the jockey, jockey's clothing, jockey's safety equipment and over-girth. This accounts for additional weight depending on specific equipment, as well as weather, track and racing conditions.

45.7.o. The following provisions apply to dead heats:

45.7.o.1. When two (2) or more horses run a dead heat, the results of the dead heat are final.

45.7.o.2. The owners of the horses in a dead heat shall divide equally the purse money involved.

45.7.o.3. If a dead heat is for first place, each horse shall be considered a winner of the amount received according to paragraph 45.7.o.2 of this subdivision.

45.7.o.4. When a dead heat is run for second place and an objection is made and sustained as to the winner of the race, the horses which run the dead heat for second place shall be considered to have run a dead heat for first place.

45.7.o.5. Owners shall divide equally all moneys and other prizes and if no agreement can be reached as to which of them shall receive a cup, plate or other indivisible prize, they shall draw lots for it in the presence of one (1) or more of the stewards.

45.7.o.6. In case of a dead heat for win, each of the horses involved is a winner for the purpose of this subdivision.

§178-1-46. Protests, Objections and Inquiries.

46.1. Stewards to Inquire. The following provisions apply to inquiries by the stewards:

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

46.1.b. In determining the extent of disqualification, the stewards in their discretion may:

46.1.b.1. declare null and void a track record set or equalled by a disqualified horse, or any horses coupled with it as an entry;

46.1.b.2. affirm the placing judges' order of finish and hold the jockey responsible if, in the stewards' opinion, the foul riding did not affect the order of finish; or

46.1.b.3. disqualify the offending horse and hold the jockey blameless if in the stewards' opinion the interference to another horse in a race was not the result of an intentional foul or careless riding on the part of a jockey.

46.2. Race Objections. The following provisions apply to race objections:

46.2.a. An objection following the running of any race must be made to the stewards before the race is declared official.

46.2.b. The stewards shall make all findings of fact as to all matters occurring during and incident to the running of a race; shall determine all objections and inquiries, and shall determine the extent of disqualification, if any, of horses in the race.

46.2.c. Once the stewards have determined a race objection, any party may make a complaint to the stewards regarding such determination. A complaint must be made in writing to the stewards within twenty-four (24) hours of their determination.

~~46.2.c.~~ 46.2.d. If a jockey wishes to object to a happening in a race, he or she must notify the clerk of scales immediately upon his or her arrival at the scales for weighing-in. However, when the Quick Official is being used the jockey shall notify the outrider that is equipped with a two-way radio for communication with the stewards, that the jockey wishes to claim foul or put a "hold" on the race. The jockey may either claim foul or put the race on hold. The jockey shall then proceed to the clerk of scales and contact the stewards upon dismounting.

46.3. Protests. The following provisions apply to protests:

46.3.a. A protest shall be made in writing, signed by the complainant and filed with the stewards before post time of the race in question.

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

46.3.c. Any person may make a protest involving fraud.

46.3.d. If a claimed horse has had a posterior digital neurectomy and has not complied with the requirements of paragraph 51.1.b.9. of this rule, the claimant has forty-eight (48) hours from the start of the race from which the horse was claimed to file a protest which shall be supported by an affidavit made by a practicing veterinarian holding an occupational permit and a Racing Commission veterinarian.

46.3.e. Anyone who protests against a horse engaged in a race and who files the protest with the stewards not less than sixty (60) minutes before post time, shall receive immediate consideration. The stewards shall disqualify the horse from starting when there is no proof provided within thirty (30) minutes of post time that the horse is qualified to start.

46.3.f. A protest against the scheduled distance of a race shall be made at least thirty (30) minutes before post time for that race.

46.3.g. A protest may not be withdrawn unless a request to withdraw is submitted in writing and is approved by the stewards.

46.3.h. No person shall make a frivolous protest.

46.3.i. The stewards shall keep a record of all protests and complaints and any action taken on the protests and complaints.

PART 8. EQUINE VETERINARY PRACTICES, HEALTH AND MEDICATION.

§178-1-47. Equine Health.

47.1. General. All horses that move onto a West Virginia racetrack from another state or country must comply with all applicable rules of the West Virginia Commissioner of Agriculture and with the applicable rules of the United States Department of Agriculture.

47.2. Equine Infectious Anemia (EIA). The following provisions apply to equine infectious anemia (EIA):

47.2.a. No horse shall be permitted on the grounds of a racing association in this state unless the horse has had a negative Coggins test for EIA.

47.2.b. A person designated by the racing association, must review official test papers of each horse at the time of entry on the grounds of the racing association to ensure that all horses are negative for EIA.

47.2.c. All horses being moved interstate must have been tested for EIA with a negative result within twelve (12) months prior to start in a race held under the jurisdiction of the Racing Commission.

47.2.d. All horses not moved interstate must have been tested for EIA with a negative result within twelve (12) months prior to start in a race held under the jurisdiction of the Racing Commission.

47.2.e. Should a horse at a racetrack in this state test positive for EIA, notification shall be sent to the West Virginia Commissioner of Agriculture within twenty-four (24) hours after the results of the test are known. Copies of the notification sent to the Commissioner of Agriculture shall be simultaneously provided to the stewards and the association.

47.2.f. Once a positive EIA test is received for a horse at a racetrack in this state, the rules and procedures of the Commissioner of Agriculture govern the handling and movement of infected and exposed horses at the track.

47.3. Euthanasia. No horse shall be euthanized on the grounds of an association until the horse has been observed by a Racing Commission veterinarian. If an emergency arises, a practicing veterinarian attending to the horse may euthanize the horse and shall subsequently notify a Racing Commission veterinarian.

§178-1-48. Veterinary Practices.

48.1. Veterinarians under Authority of Racing Commission Veterinarian(s). Veterinarians issued an occupational permit by the Racing Commission and practicing at any location under the jurisdiction of the Commission are under the authority of the Racing Commission veterinarian(s) and the stewards. The Racing Commission veterinarian(s) may recommend to the stewards or the Racing Commission the discipline that may be imposed upon a veterinarian who violates this rule.

48.2. Treatment Restrictions. The following provisions apply to treatment restrictions:

48.2.a. Except as otherwise provided in this subsection, no person other than a veterinarian licensed to practice veterinary medicine in the state of West Virginia and holding an occupational permit issued by the Racing Commission shall possess or administer to a horse a prescription or controlled medication, drug, chemical or other substance (including any medication, drug, chemical or other substance by injection) at any location under the jurisdiction of the Racing Commission.

48.2.b. This subsection does not apply to the administration of the following substances except in approved quantitative levels, if any, present in post-race samples or as they may interfere with post-race testing:

48.2.b.1. A recognized non-injectable nutritional supplement or other substance approved by a Racing Commission veterinarian;

48.2.b.2. A non-injectable substance on the direction or by prescription of a veterinarian licensed to practice veterinary medicine in the state of West Virginia and holding an occupational permit issued by the Racing Commission; or

48.2.b.3. A non-injectable non-prescription medication or substance.

48.2.c. No person, other than a veterinarian licensed to practice veterinary medicine in the state of West Virginia and holding an occupational permit issued by the Racing Commission shall possess a hypodermic needle, syringe or injectable of any kind on association grounds, unless otherwise approved by the stewards or the Racing Commission. At any location under the jurisdiction of the Racing Commission, veterinarians may use only one-time disposable needles, and shall dispose of them in a manner approved by the Racing Commission veterinarian(s). If a person has a medical condition which makes it necessary to have a syringe at any location under the jurisdiction of the Racing Commission, that person may request permission of the stewards and/or the Commission to have a syringe. Such a request shall be in writing and shall be accompanied by a statement from a licensed physician explaining why it is necessary for the person to possess a syringe. If permission is granted to any person to have a syringe at any location under the Racing Commission's jurisdiction, the stewards and/or the Commission may impose conditions and/or restrictions in connection with such approval.

48.2.d. Practicing veterinarians shall not have contact with an entered horse on a race day except for the administration of furosemide (Lasix®) under the guidelines set forth in subsection 49.7. of this rule unless approved by a Racing Commission veterinarian. If approval to have contact with an entered horse on a race day for purposes other than the administration of furosemide (Lasix®) is obtained from a Racing Commission veterinarian, or if reasonable efforts are made to contact a Racing Commission veterinarian and he or she is unavailable, a practicing veterinarian may have contact with the horse for purposes other than the administration of furosemide (Lasix®): *Provided*, That the practicing veterinarian shall complete a form prescribed by the Racing Commission notifying the Racing Commission veterinarian of the contact. Such form shall be provided to the Racing Commission veterinarian one hour before post time.

48.3. Veterinarians' Reports. Every veterinarian who treats a racehorse at any location under the jurisdiction of the Racing Commission shall record in writing the name of the horse treated, any medication, drug, substance, or procedure administered or prescribed, the name of the trainer of the horse, the date and time of treatment and any other information requested by a Racing Commission veterinarian(s). The veterinarian treating the racehorse shall sign each written record of treatment and shall provide such treatment records to the stewards and/or the Racing Commission veterinarian(s) upon request. Any veterinarian who falsifies any treatment record or who fails to maintain treatment records may be disciplined by the stewards or the Racing Commission.

48.4. Prohibited Practices. The following are prohibited practices:

48.4.a. The possession or use of a drug, substance or medication on the premises of a facility under the jurisdiction of the Commission for which a recognized analytical method has not been developed to detect and confirm the administration of such substance; or the use of which may endanger the health and welfare of the horse or endanger the safety of the rider; or the use of which may adversely affect the integrity of racing; or

48.4.b. The possession or use of a drug, substance, or medication on the premises of a facility under the jurisdiction of the Racing Commission that has not been approved by the United States Food and Drug Administration (FDA) for any use in humans or animals is forbidden without prior permission of the Racing Commission or a Racing Commission veterinarian. This rule shall not restrict the recognized off-label use of any FDA approved medication.

48.4.c. The possession and/or use of blood doping agents (agents that abnormally enhance the oxygenation of body tissue), including but not limited to those listed below, on the premises of a facility under the jurisdiction of the Racing Commission is forbidden:

48.4.c.1. Erythropoietin;

48.4.c.2. Darbepoetin;

48.4.c.3. Oxyglobin®;

48.4.c.4. Hemopure®; and

48.4.c.5. Aransep.

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

48.4.d.1. Any treated horse shall not be permitted to race or train for a minimum of ten (10) days following treatment;

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

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

48.4.d.4. All extracorporeal shock wave therapy or radial pulse wave therapy treatments must be reported to a Racing Commission veterinarian within one (1) day on a prescribed form, not later than the time established by a Racing Commission veterinarian. The horse shall be added to a list of ineligible horses. This list shall be kept in the association's racing secretary's office and shall be accessible to jockeys and/or their agents during normal business hours; and

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

48.4.e. The use of a nasogastric tube (a tube longer than six inches) for the administration of any substance within twenty-four (24) hours prior to the post time of a race in which the horse is entered is prohibited without the prior permission of a Racing Commission veterinarian or his or her designee.

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

49.1. General. Upon a finding of a violation of this medication and prohibited substances rule, the stewards shall consider the classification level of the violation as listed in the Uniform Classification Guidelines for Foreign Substances as promulgated by the Association of Racing Commissioners International (RCI) (revised January December 2011), set forth in table 178-1D at the end of this rule. Imposition of penalties and disciplinary action by the stewards for a violation of this medication and prohibited substances rule shall be consistent with the penalty guidelines set forth in table 178-1E at the end of this rule. The stewards may also consult with a Racing Commission veterinarian to determine if the violation was a result of the administration of a therapeutic medication as documented in a veterinarian's treatment record per subsection 48.3. The stewards may also consult with the laboratory director or other individuals to determine the seriousness of the laboratory finding or the medication violation. Penalties for all medication and drug violations shall be investigated, reviewed and determined on a case by case basis. As a result of the investigation, there may be mitigating circumstances for which a lesser or no penalty is appropriate for the permit holder and aggravating factors, which may increase the penalty beyond the minimum. Factors that may be considered are:

- 49.1.a. The past record of the trainer, veterinarian and/or owner in drug cases;
- 49.1.b. The potential of the drug(s) to influence a horse's racing performance;
- 49.1.c. The legal availability of the drug;
- 49.1.d. Whether there is reason to believe the responsible party knew of the administration of the drug or intentionally administered the drug;
- 49.1.e. The steps taken by the trainer to safeguard the horse;
- 49.1.f. The probability of environmental contamination or inadvertent exposure due to human drug use;
- 49.1.g. The purse of the race;
- 49.1.h. Whether the drug found was one for which the horse was receiving a treatment as documented by the treating veterinarian's treatment records;
- 49.1.i. Whether there was any suspicious betting pattern in the race;
- 49.1.j. Whether the trainer was acting under the advice of a veterinarian licensed to practice in West Virginia and holding an occupational permit issued by the Racing Commission; and
- 49.1.k. Any other factors deemed relevant and documented in writing by the stewards.

49.2. Uniform Classification Guidelines. The following outline describes the types of substances placed in each category of the Uniform Classification Guidelines for Foreign Substances as promulgated by the Association of Racing Commissioners International (RCI) (revised January December 2011), set forth in table

178-1D at the end of this rule. The Guidelines shall be publicly posted in the offices of the Racing Commission veterinarian(s) and the association's racing secretary.

49.2.a. Class 1. Opiates, opium derivatives, synthetic opioids, psychoactive drugs, amphetamines and United States Drug Enforcement Agency (DEA) scheduled I and II drugs. Also found in this class are drugs which are potent stimulants of the nervous system. Drugs in this class have no generally accepted medical use in the racehorse and their pharmacological potential for altering the performance of a race is very high.

49.2.b. Class 2. Drugs in this category have a high potential for affecting the outcome of a race. Most are not generally accepted as therapeutic agents in the racehorse. Many are products intended to alter consciousness or the psychic state of humans, and have no approved or indicated use in the horse. Some, such as injectable local anesthetics, have legitimate use in equine medicine, but should not be found in a racehorse. The following groups of drugs are in this class:

49.2.b.1. Opiate partial agonists, or agonist-antagonists;

49.2.b.2. Non-opiate psychotropic drugs, which may have stimulant, depressant, analgesic or neuroleptic effects;

49.2.b.3. Miscellaneous drugs which might have a stimulant effect on the central nervous system (CNS);

49.2.b.4. Drugs with prominent CNS depressant action;

49.2.b.5. Antidepressant and antipsychotic drugs, with or without prominent CNS stimulatory or depressant effects;

49.2.b.6. Muscle blocking drugs which have a direct neuromuscular blocking action;

49.2.b.7. Local anesthetics which have a reasonable potential for use as nerve blocking agents (except procaine); and

49.2.b.8. Snake venoms and other biologic substances, which may be used as nerve blocking agents.

49.2.c. Class 3. Drugs in this class may or may not have an accepted therapeutic use in the horse. Many are drugs that affect the cardiovascular, pulmonary and autonomic nervous systems. They all have the potential of affecting the performance of a racehorse. The following groups of drugs are in this class:

49.2.c.1. Drugs affecting the autonomic nervous system which do not have prominent CNS effects, but which do have prominent cardiovascular or respiratory system effects (bronchodilators are included in this class);

49.2.c.2. A local anesthetic which has nerve blocking potential but also has a high potential for producing urine residue levels from a method of use not related to the anesthetic effect of the drug (procaine);

49.2.c.3. Miscellaneous drugs with mild sedative action, such as the sleep inducing antihistamines;

49.2.c.4. Primary vasodilating/hypotensive agents;

49.2.c.5. Potent diuretics affecting renal function and body fluid composition; and

49.2.c.6. Anabolic and/or androgenic steroids and other drugs.

49.2.d. Class 4. This category is comprised primarily of therapeutic medications routinely used in racehorses. These may influence performance, but generally have a more limited ability to do so. Groups of drugs assigned to this category include the following:

49.2.d.1. Non-opiate drugs which have a mild central analgesic effect;

49.2.d.2. Drugs affecting the autonomic nervous system which do not have prominent CNS, cardiovascular or respiratory effects;

49.2.d.3. Drugs used solely as topical vasoconstrictors or decongestants;

49.2.d.4. Drugs used as gastrointestinal antispasmodics;

49.2.d.5. Drugs used to void the urinary bladder;

49.2.d.6. Drugs with a major effect on CNS vasculature or smooth muscle of visceral organs;

49.2.d.7. Antihistamines which do not have a significant CNS depressant effect (This does not include H1 blocking agents, which are listed in Class 5);

49.2.d.8. Mineralocorticoid drugs;

49.2.d.9. Skeletal muscle relaxants;

49.2.d.10. Anti-inflammatory drugs -- those that may reduce pain as a consequence of their anti-inflammatory actions, which include:

49.2.d.10.A. Non-Steroidal Anti-Inflammatory Drugs (NSAIDs);

49.2.d.10.B. Corticosteroids (glucocorticoids); and

49.2.d.10.C. Miscellaneous anti-inflammatory agents.

49.2.d.11. Less potent diuretics;

49.2.d.12. Cardiac glycosides and antiarrhythmics including:

49.2.d.12.A. Cardiac glycosides;

49.2.d.12.B. Antirhythmic agents (exclusive of lidocaine, bretylium and propranolol); and

49.2.d.12.C. Miscellaneous cardiotoxic drugs.

49.2.d.13. Topical Anesthetics -- agents not available in injectable formulations;

49.2.d.14. Antidiarrheal agents; and

49.2.d.15. Miscellaneous drugs including:

49.2.d.15.A. Expectorants with little or no other pharmacologic action;

49.2.d.15.B. Stomachics; and

49.2.d.15.C. Mucolytic agents.

49.2.e. Class 5. Drugs in this category are therapeutic medications for which concentration limits have been established as well as certain miscellaneous agents. Included specifically are agents, which have very localized action only, such as anti-ulcer drugs and certain anti-allergenic drugs. The anticoagulant drugs are also included.

49.3. Penalties. The following provisions apply to penalties for violations of this medication and prohibited substance rule:

49.3.a. Upon a finding that an occupational permit holder is in violation of this medication and prohibited substance rule, the stewards or the Racing Commission may, in their discretion, issue a reprimand or warning, assess a fine, require forfeiture or redistribution of a purse or award, place a permit holder on probation, suspend a permit or racing privileges, revoke a permit, exclude the permit holder from grounds under the jurisdiction of the Racing Commission, or impose any combination of these penalties.

49.3.b. In issuing penalties against individuals found guilty of medication and drug violations a regulatory distinction shall be made between the detection of therapeutic medications used routinely to treat racehorses and those drugs that have no reason to be found at any concentration in the test sample on race day.

49.3.c. The stewards or the Racing Commission shall use the Racing Medication and Testing Consortium's (RMTC) penalty category (designated by the letters "A", "B", "C" and "D" as shown on the Uniform Classification Guidelines for Foreign Substances as promulgated by the Association of Racing Commissioners International (RCI) (revised January December 2011), set forth in table 178-1D at the end of this rule and the penalty guidelines set forth in table 178-1E at the end of this rule as a starting place in the penalty stage of the deliberations for a rule violation for any drug listed in the Uniform Classification Guidelines for Foreign Substances as promulgated by the Association of Racing Commissioners International (RCI) (revised January December 2011), set forth in table 178-1D at the end of this rule.

49.3.d. The penalty guidelines for those drugs designated a penalty category of "A", "B" or "C" are set forth in table 178-1E at the end of this rule. The recommended penalty for a violation involving a drug that carries a category "D" penalty is a written warning to the trainer and/or owner. Multiple violations may result in fines and/or suspensions.

49.3.e. If a practicing veterinarian is administering or prescribing a drug not listed in the Uniform Classification Guidelines for Foreign Substances as promulgated by the Association of Racing Commissioners International (RCI) (revised January December 2011), set forth in table 178-1D at the end of this rule, the identity of the drug shall be forwarded to a Racing Commission veterinarian(s) to be forwarded to the Racing Medication and Testing Consortium (RMTC) for classification.

49.3.f. In the event that any drug or metabolite thereof is found to be present in a pre- or post-race sample and the drug or metabolite is not classified in the Uniform Classification Guidelines for Foreign Substances as promulgated by the Association of Racing Commissioners International (RCI) (revised January December 2011), set forth in table 178-1D at the end of this rule, the Racing Commission shall cause the sample to be sent to the Racing Medication and Testing Consortium (RMTC) for a determination of the

appropriate classification and penalty category. Upon a determination of classification and penalty category, the trainer and owner shall be subject to the appropriate penalties as set forth in table 178-1E at the end of this rule.

49.3.g. Any Racing Commission permit holder, including practicing veterinarians, found to be responsible for the improper or intentional administration of any drug resulting in a positive test may, after proper notice and hearing, be subject to the same penalties set forth in table 178-1E at the end of this rule for trainers holding occupational permits.

49.3.h. The owner, veterinarian or any other party holding an occupational permit involved in a positive laboratory finding shall be notified in writing of the hearing and any resulting action. In addition, their presence may be required at any and all hearings relative to the case.

49.3.i. Any practicing veterinarian found to be involved in the administration of any Class 1 drug may be referred to the West Virginia Board of Veterinary Medicine for consideration of disciplinary action against the veterinarian's license to practice in the state of West Virginia. This is in addition to any penalties issued by the stewards or the Racing Commission against the practicing veterinarian's occupational permit.

49.3.j. Any person who the stewards or the Racing Commission believe may have committed acts in violation of criminal statutes may be referred to the appropriate law enforcement agency.

49.3.k. Administrative action taken by the stewards or the Racing Commission in no way prohibits a prosecution for criminal acts committed, nor does a potential criminal prosecution stall administrative action by the stewards or the Commission.

49.3.l. Procedures shall be established by the stewards to ensure that a trainer holding an occupational permit is not able to benefit financially during the period for which he or she has been suspended. This includes, but is not limited to, ensuring that horses are not transferred to family members holding occupational permits.

49.4. Medication Restrictions. The following provisions apply to medication restrictions:

49.4.a. A finding by a Racing Commission approved laboratory of a prohibited drug, chemical or other substance in a test specimen of a horse is prima facie evidence that the prohibited drug, chemical or other substance was administered to the horse and, in the case of a post-race test, was present in the horse's body while it was participating in a race. Prohibited substances include:

49.4.a.1. Drugs or medications for which no acceptable threshold concentration has been established;

49.4.a.2. Therapeutic medications in excess of established threshold concentrations;

49.4.a.3. Substances present in the horse in excess of concentrations at which such substances could occur naturally; and

49.4.a.4. Substances foreign to a horse at concentrations that cause interference with testing procedures.

49.4.b. Except as otherwise provided by this rule, a person may not administer or cause to be administered by any means to a horse a prohibited drug, medication, chemical or other substance, including

any restricted medication pursuant to this rule during the twenty-four (24) hour period before post time for the race in which the horse is entered.

49.5. Medical Labeling. The following provisions apply to medical labeling:

49.5.a. No person on association grounds where horses are lodged or kept, excluding practicing veterinarians, shall have in or upon association grounds which that person occupies or has the right to occupy, or in that person's personal property or effects or vehicle in that person's care, custody or control, a drug, medication, chemical, foreign substance or other substance that is prohibited in a horse on a race day unless the product is labeled in accordance with this subsection.

49.5.b. Any drug or medication which is used or kept on association grounds and which, by federal or state law, requires a prescription must have been validly prescribed by a duly licensed veterinarian, and in compliance with the applicable state statutes. All such allowable medications must have a prescription label which is securely attached and clearly ascribed to show the following:

49.5.b.1. The name of the product;

49.5.b.2. The name, address and telephone number of the veterinarian prescribing or dispensing the product;

49.5.b.3. The name of each patient (horse) for whom the product is intended/prescribed;

49.5.b.4. The dose, dosage, duration of treatment and expiration date of the prescribed/dispensed product; and

49.5.b.5. The name of the person (trainer) to whom the product was dispensed.

49.6. Non-Steroidal Anti-Inflammatory Drugs (NSAIDs). The following provisions apply to NSAIDs:

49.6.a. The use of one (1) of three (3) approved NSAIDs shall be permitted under the following conditions:

49.6.a.1. Not to exceed the following permitted serum or plasma threshold concentrations which are consistent with administration by a single intravenous injection at least twenty-four (24) hours before post time for the race in which the horse is entered:

49.6.a.1.A. Phenylbutazone (or its metabolite oxyphenylbutazone) -- 5 ~~2~~ micrograms per milliliter;

49.6.a.1.B. Flunixin -- 20 nanograms per milliliter;

49.6.a.1.C. Ketoprofen -- 10 nanograms per milliliter.

49.6.a.2. These or any other NSAID are prohibited to be administered within twenty-four (24) hours before post time for the race in which the horse is entered.

49.6.a.3. The presence of more than one (1) of the three (3) approved NSAIDs, with the exception of phenylbutazone in a concentration below ~~one (1)~~ 0.5 microgram per milliliter of serum or plasma or any unapproved NSAID in the post-race serum or plasma sample is not permitted. The use of all but one (1) of

the approved NSAIDs shall be discontinued at least forty-eight (48) hours before post time for the race in which the horse is entered.

49.6.b. Any horse to which a NSAID has been administered shall be subject to having a blood and/or urine sample(s) taken at the direction of a Racing Commission veterinarian or the stewards to determine the quantitative NSAID level(s) and/or the presence of other drugs which may be present in the blood or urine sample(s).

49.7. Furosemide (Lasix®). The following provisions apply to furosemide (lasix®):

49.7.a. The administration of furosemide (lasix®) to a horse is permissible if:

49.7.a.1. The administration is recommended by a practicing veterinarian holding an occupational permit issued by the Racing Commission;

49.7.a.2. The recommendation is submitted to a Racing Commission veterinarian in writing; and

49.7.a.3. The trainer declares the use of furosemide (lasix®) at the time of entry.

49.7.b. Furosemide (Lasix®) shall only be administered on association grounds.

49.7.c. Furosemide (Lasix®) shall be the only authorized bleeder medication.

~~49.7.b. The administration of the adjunct medications described in this subsection is permissible if there is compliance with the provisions of this subsection.~~

~~49.7.c.~~ 49.7.d. A Racing Commission veterinarian is responsible for maintaining up-to-date records of horses which are permitted to use furosemide (lasix®), and these records shall be available for inspection during the hours of operation of the racetrack.

~~49.7.d.~~ 49.7.e. Race day administration of furosemide (lasix®) is permitted as follows:

~~49.7.d.1.~~ 49.7.e.1. A horse scheduled to race that is permitted to use furosemide (lasix®) shall be administered furosemide (lasix®) by a veterinarian holding a permit issued by the Racing Commission before the running of the race unless, under subdivision ~~49.7.h.~~ 49.7.i. of this rule, the horse has been declared off of furosemide (lasix®) by its owner or trainer.

~~49.7.d.2.~~ 49.7.e.2. As indicated by post-race quantitation, a horse may not carry in its body at the time of the running of a race more than 100 nanograms of furosemide (lasix®) per milliliter of plasma.

~~49.7.e.~~ 49.7.f. The practicing veterinarian who administers furosemide (lasix®) to a horse scheduled to race shall prepare a written certification indicating that furosemide (lasix®) was administered.

~~49.7.e.1. That furosemide (lasix®) was administered; and~~

~~49.7.e.2. If applicable, each adjunct medication that was administered.~~

~~49.7.f.~~ 49.7.g. The written certification set forth in subdivision ~~49.7.e.~~ 49.7.f. of this rule shall be in the possession of a designated Commission representative at least one (1) hour before the horse is scheduled to race.

~~49.7.g.~~ 49.7.h. The stewards shall order a horse scratched if the written certification set forth in subdivision ~~49.7.e.~~ 49.7.f. is not received in a timely manner.

~~49.7.h.~~ 49.7.i. The following provisions apply to racing off of furosemide (lasix®):

~~49.7.h.1.~~ A horse on the furosemide (lasix®) program that races without furosemide (lasix®) in any jurisdiction which permits the use of furosemide (lasix®) may not be eligible for its use for a period of sixty (60) days:

~~49.7.h.2.~~ 49.7.i.1. A horse on the furosemide (lasix®) program that races without furosemide (lasix®) in any jurisdiction which permits the use of furosemide (lasix®), ~~To~~ may become re-eligible for the administration of furosemide (lasix®) after sixty (60) days, ~~if~~ the horse ~~shall have~~ has been observed to have bled by a Racing Commission veterinarian either:

~~49.7.h.2.A.~~ 49.7.i.1.A. Externally; or

~~49.7.h.2.B.~~ 49.7.i.1.B. By endoscopic examination.

~~49.7.i.~~ 49.7.j. The following provisions apply to program notice requirements for horses on furosemide (lasix®):

~~49.7.i.1.~~ 49.7.j.1. Of the horses scheduled to race, the official program shall denote the horses which have been administered:

~~49.7.i.1.A.~~ 49.7.j.1.A. Furosemide (lasix®); and

~~49.7.i.1.B.~~ 49.7.j.1.B. Furosemide (lasix®) for the first time; and,

~~49.7.i.1.C.~~ Furosemide (lasix®) and one or more adjunct medications:

~~49.7.i.2.~~ 49.7.j.2. If the official program contains past performance lines, each past performance line shall indicate if the horse was administered furosemide (lasix®);

~~49.7.i.2.A.~~ Furosemide (lasix®); or

~~49.7.i.2.B.~~ Furosemide (lasix®) and an adjunct medication.

~~49.7.j.~~ The following provisions apply to adjunct medications:

~~49.7.j.1.~~ The following medications may be administered to a horse in conjunction with furosemide (lasix®):

~~49.7.j.1.A.~~ Aminocaproic acid;

~~49.7.j.1.B.~~ Tranexamic acid; and

~~49.7.j.1.C.~~ Carbazochrome.

~~49.7.j.2.~~ If a horse is to receive one or more adjunct medications as described in paragraph ~~49.7.j.1.~~ of this rule:

~~49.7.j.2.A. The trainer of the horse, at the time of entry, shall declare the use of adjunct medication; and~~

~~49.7.j.2.B. The veterinarian who administers an adjunct medication shall report each specific adjunct medication administered on the same form used to report the administration of furosemide (lasix®) as required by subdivision 49.7.c. of this rule.~~

49.8. Bleeder List. The following provisions apply to the bleeder list:

49.8.a. A list of all horses which have demonstrated external evidence of exercise induced pulmonary hemorrhage from one or both nostrils during or after a race or workout ~~within the last two (2) years~~ shall be maintained by the Racing Commission veterinarian(s) and the list shall be published in the association's racing secretary's office.

49.8.b. A first time bleeder shall be placed on the ~~veterinarian's~~ bleeder list and remain on the list for a minimum of ten (10) calendar days. A second time bleeder within a twelve (12) month period shall be placed on the ~~veterinarians'~~ bleeder list and remain on the list for a minimum of forty-five (45) calendar days. A bleeder in these categories is automatically released from the list after the expiration of these time periods. A horse that bleeds three (3) times within a twelve (12) month period shall be barred from further racing in West Virginia for a period of one (1) year.

49.9. Anti-Ulcer Medications. The following anti-ulcer medications are permitted to be administered, at the stated dosage, up to twenty-four (24) hours prior to the race in which the horse is entered:

49.9.a. Cimetidine (Tagamet®) -- 8-20 mg/kg PO BID-TID;

49.9.b. Omeprazole (Gastrogard®) -- 2.2 grams PO SID; and

49.9.c. Ranitidine (Zantac®) -- 8 mg/kg PO BID.

49.10. Environmental Contaminants and Substances of Human Use. The following provisions apply to environmental contaminants and substances of human use:

49.10.a. It is recognized that there are substances that can be environmental contaminants in that they are endogenous to the horse or that they can arise from plants traditionally grazed or harvested as equine feed or are present in equine feed because of contamination during the cultivation, processing, treatment, storage or transportation phases. It is also recognized that there are drugs of human use and addiction and which could be found in the horse due to its close association with humans. Therefore, if an owner/trainer wishes to contest a positive test by presenting a defense that the test is the result of environmental contamination or inadvertent exposure due to human drug use, he or she must prove such defense by a preponderance of evidence presented in a hearing. If an owner/trainer proves such defense by a preponderance of evidence, it may be considered as a mitigating factor in any disciplinary action taken against the affected owner/trainer.

49.10.b. Although caffeine may be found in a horse due to environmental contamination/inadvertent exposure, no sample or specimen shall exceed the level of 100 nanograms per milliliter of serum or plasma when tested post race.

49.11. Androgenic-Anabolic Steroids (AAS). The following provisions apply to androgenic-anabolic steroids (AAS):

49.11.a. No AAS shall be permitted in test samples collected from racing horses except for residues of the major metabolite of stanozolol, nandrolone, and the naturally occurring substances boldenone and testosterone at concentrations less than the indicated thresholds.

49.11.b. Concentrations of these AAS shall not exceed the following threshold concentrations for total (*i.e.*, free drug or metabolite and drug or metabolite liberated from its conjugates):

49.11.b.1. In urine:

49.11.b.1.A. 16 β -hydroxystanozolol (metabolite of stanozolol (Winstrol)) -- 1 ng/ml in urine for all horses regardless of sex;

49.11.b.1.B. Boldenone (Equipoise® is the undecylenate ester of boldenone) in male horses other than geldings -- 15 ng/ml in urine. No boldenone shall be permitted in geldings or female horses;

49.11.b.1.C. Nandrolone (Durabolin® is the phenylpropionate ester and Deca-Durabolin® is the decanoate ester):

49.11.b.1.C.1. In geldings -- 1 ng/ml in urine;

49.11.b.1.C.2. In fillies and mares -- 1 ng/ml in urine.

49.11.b.1.D. Testosterone:

49.11.b.1.D.1. In geldings -- 20 ng/ml in urine;

49.11.b.1.D.2. In fillies and mares -- 55 ng/ml in urine;

49.11.b.2. In plasma:

49.11.b.2.A. Stanozolol -- Screening limit no greater than 100 pg/ml in serum or plasma with a confirmatory threshold no greater than 25 pg/ml for all horses regardless of sex;

49.11.b.2.B. Boldenone -- Screening limit no greater than 100 pg/ml in serum or plasma with a confirmatory threshold no greater than 25 pg/ml for all horses regardless of sex;

49.11.b.2.C. Nandrolone -- Screening limit no greater than 100 pg/ml in serum or plasma with a confirmatory threshold no greater than 25 pg/ml for geldings and fillies and mares. Male horses other than geldings will not be tested;

49.11.b.2.D. Testosterone:

49.11.b.2.D.1. In geldings -- Screening limit no greater than 100 pg/ml in serum or plasma with a confirmatory threshold no greater than 25 pg/ml;

49.11.b.2.D.2. In fillies and mares -- Screening limit no greater than 100 pg/ml in serum or plasma with a confirmatory threshold no greater than 25 pg/ml;

49.11.b.2.D.3. In male horses other than geldings -- Confirmatory threshold no greater than 2,000 pg/ml.

49.11.c. Any other anabolic steroids are prohibited in racing horses.

49.11.d. If a test on a horse exceeds the above-referenced thresholds for Boldenone, Nandrolone or Testosterone and the owner/trainer of the horse desires to have further testing to determine whether or not there is reliable proof that the amount found in the horse is naturally occurring, the owner/trainer may request that such testing be undertaken and the owner shall bear the costs of the additional testing.

49.11.e. Post-race urine and blood samples must have the sex of the horse identified to the laboratory.

49.11.f. Any horse to which an anabolic steroid has been administered in order to assist in the recovery from illness or injury may be placed on the veterinarian's list in order to monitor the concentration of the drug or metabolite in urine. After the concentration has fallen below the designated threshold for the administrated AAS, the horse is eligible to be removed from the list.

49.12. Alkalinizing Substances. The use of agents that elevate the horse's TCO₂ or base excess level above those existing naturally in the untreated horse at normal physiological concentrations is prohibited. The following levels also apply to blood gas analysis:

49.12.a. The regulatory threshold for TCO₂ in non-furosemide (lasix®) treated horses is 37.0 millimoles per liter of plasma/serum or a base excess level of 10.0 millimoles;

49.12.b. The regulatory threshold for TCO₂ in furosemide (lasix®) treated horses is 39.0 millimoles per liter of plasma/serum or a base excess level of 12.0 millimoles; and

49.12.c. The measure of uncertainty in testing for TCO₂ shall be .4 millimoles per liter of plasma/serum. A horse must show a base excess level of 10.4 millimoles or higher for non-furosemide (lasix®) treated horses and a base excess level of 12.4 millimoles or higher for a furosemide (lasix®) treated horse, in order for a violation to be reported under this rule.

49.13. Out of Competition Testing for Blood and/or Gene Doping Agents. The following provisions apply to out of competition testing for blood and/or gene doping agents:

49.13.a. Any horse on the grounds at a racetrack under the jurisdiction of the Racing Commission; or under the care or control of trainer or owner holding an occupational permit issued by the Racing Commission is subject to testing for blood and/or gene doping agents without advance notice. This rule does not apply to therapeutic medications approved by the FDA for use in the horse and the recognized off-label use of any FDA approved medication.

49.13.b. Horses to be tested may be selected at random, with probable cause, or as determined by the Racing Commission or the stewards.

49.13.c. A Racing Commission veterinarian, or any practicing veterinarian holding an occupational permit or a licensed veterinary technician authorized by the Racing Commission, may at any time, take a urine, blood or hair sample from a horse for this purpose.

49.13.d. Prohibited substances, practices and procedures are defined as:

49.13.d.1. Blood doping agents including, but not limited to Erythropoietin (EPO), Darbepoetin, Oxyglobin®, Hemopure®, Aransep or any substance that abnormally enhances the oxygenation of body tissues.

49.13.d.2. Gene doping agents or the non-therapeutic use of genes, genetic elements, and/or cells that have the capacity to enhance athletic performance or produce analgesia.

49.13.e. Cooperation with the Racing Commission veterinarian, or any practicing veterinarian or licensed veterinary technician authorized by the Racing Commission, includes:

49.13.e.1. Assisting in the immediate location and identification of the horse selected for out of competition testing;

49.13.e.2. Providing a stall or safe location to collect the samples;

49.13.e.3. Assisting the veterinarian in properly procuring the samples;

49.13.e.4. Split samples will be collected as set forth in this rule.

49.13.f. Out of competition samples will be sent to the official laboratory of the Racing Commission, or other laboratory as designated by the Commission with reports made in accordance with the provisions of these medication rules and the penalty provisions thereof.

49.14. Therapeutic Medications. The use of the following therapeutic medications shall be permitted under the following conditions:

49.14.a. Glycopyrrolate -- Not to exceed a 3.5 pg/ml threshold concentration in serum or plasma;

49.14.b. Methocarbamol -- Not to exceed a 1 ng/ml threshold concentration in serum or plasma;

49.14.c. Dimethylsulfoxide (DMSO) -- Not to exceed a 10 mcg/ml threshold concentration in serum or plasma.

49.15. American Graded Stakes Races. For any race in this state that has been issued a grade by the American Graded Stakes Committee, the stewards may allow the drug testing protocol established by the American Graded Stakes Committee to be followed in that race. The association shall notify the Racing Commission and the stewards upon the issuance of a grade for a race by the American Graded Stakes Committee so that the stewards may allow the appropriate drug testing protocol to be administered and enforced. A copy of the drug testing protocol in graded stakes races shall be published in the office of the association's racing secretary.

§178-1-50. Testing.

50.1. Reporting to the Test Barn. The following provisions apply to reporting to the test barn:

50.1.a. The official winning horse and any other horse ordered by the stewards shall be taken immediately after a race to the test barn to provide specimens of urine, blood or other bodily substances or tissues at the direction of a Racing Commission veterinarian.

50.1.b. After each race, security personnel shall maintain uninterrupted observation of the horse or horses to be tested from the unsaddling area and/or the racetrack to the test barn.

50.1.c. The stewards or a Racing Commission veterinarian(s) may require at any time that any horse be sent to the test barn to provide specimens of urine, blood or other bodily substances or tissues, as well as

for an examination for sponging, and any other examination as may be directed by the stewards or a Racing Commission veterinarian.

50.1.d. The stewards or a Racing Commission veterinarian may also require any horse stabled at a racetrack to provide specimens of urine, blood or other bodily substances or tissues.

50.1.e. A Racing Commission veterinarian or the stewards may authorize a horse to return to its barn under security for the purpose of collecting specimens.

50.1.f. A security guard shall monitor access to the test barn during its operation. The security guard shall require all persons entering the test barn to sign in and sign out on a log to be maintained at the test barn.

50.1.g. No more than two (2) persons shall accompany the horse into the test barn. Such persons must hold occupational permits issued by the Racing Commission and must have a legitimate reason for being in the test barn area. No horse or persons accompanying it shall be permitted to leave the test barn until the specimens have been obtained or until they have been otherwise excused by a Racing Commission veterinarian.

50.1.h. Once any person accompanying a horse into the test barn has departed the test barn, he or she shall not be permitted to reenter, unless reentering to attend to a different horse. This prohibition does not apply to the trainer of a horse in the test barn, the Racing Commission veterinarian(s), practicing veterinarians attending to horses in the test barn, or other Racing Commission personnel.

50.1.i. All veterinary technicians or assistants collecting specimens shall remain in the test barn after the arrival of the first horse until they have completed their duties, unless excused by a Racing Commission veterinarian.

50.1.j. Random or extra testing may be required by the stewards or the Commission at any time on any horse on association grounds.

50.2. Official chemists. The following provisions apply to official chemists:

50.2.a. The official chemists selected by the Racing Commission to engage in either primary or split post-race specimen or sample analysis shall be members in good standing of the Association of Official Racing Chemists and shall make all reports directly to the ~~racing secretary~~ executive director of the Racing Commission and the chief steward at the appropriate racetrack.

50.2.b. In order for a chemist to be selected by the Racing Commission to engage in split post-race specimen or sample analysis, it shall establish reasonable fees for split sample testing based on its actual cost of testing.

50.2.c. A split sample testing laboratory shall be a member in good standing of the Association of Official Racing Chemists and approved by the Racing Commission.

50.3. Specimen Collection. The following provisions apply to specimen collection:

50.3.a. Specimen collection shall be done in accordance with the guidelines and instructions provided by a Racing Commission veterinarian.

50.3.b. The Racing Commission veterinarian shall determine a minimum specimen requirement for the primary official chemist.

50.3.c. If the urine specimen obtained from a horse is less than the minimum sample requirement, the entire specimen shall be sent to the primary testing laboratory and the results of tests performed on the specimen shall be considered prima facie evidence of the condition of the horse.

50.3.d. If a urine specimen obtained is greater than the minimum sample requirement but less than twice that amount, the portion of the sample that is greater than the minimum sample requirement shall be secured as the split sample.

50.3.e. If a urine specimen obtained is greater than twice the minimum sample requirement, a portion of the sample approximately equal to the amount provided for the primary testing laboratory shall be secured as the split sample.

50.3.f. A minimum of two (2) blood specimens shall be collected in blood collection tubes. A minimum of one blood specimen shall be sent to the primary testing laboratory and the remaining sample or samples shall be retained and/or distributed, as appropriate, by a Racing Commission veterinarian.

50.3.g. All blood specimens shall be refrigerated and all urine specimens shall be frozen. The racing association shall pay all laboratory expenses for blood and urine analysis.

50.3.h. Specimens of other bodily substances or tissues may be collected and forwarded to an official chemist by a Racing Commission veterinarian or his or her designee. The Racing Commission shall pay all laboratory expenses for analysis of such bodily substances or tissues.

50.3.i. Any specimen collected from a horse, and all reports of any testing of these specimens, is the property of the Racing Commission.

50.3.j. The owner, trainer, or other authorized representative shall be present when a specimen is taken from his or her horse. The owner, trainer or other authorized representative shall remain until the specimen is sealed and shall sign the official form as witness to the taking of the specimen. Failing to be present when taking any specimen or refusal to allow the taking of any specimen by any means shall subject the person or persons guilty of violating this rule to summary suspension of their occupational permit by the stewards.

50.3.k. All specimens taken by or under direction of the Racing Commission veterinarian or other authorized representative of the Racing Commission shall be delivered to an official chemist for analysis. Each specimen shall be marked and bear any information that is essential to its proper analysis. However, the identity of the horse from which the specimen was taken or the identity of its owner, trainer, jockey or stable shall not be revealed to the official chemist or his or her staff. The container of each specimen shall be sealed as soon as the specimen is placed in it.

50.3.l. Blood samples for split sample analysis shall be centrifuged and the plasma separated and frozen before shipment to the split sample testing laboratory.

50.3.m. If the split sample testing laboratory determines that there is insufficient sample volume to make a specific identification of the sample contents, or if events beyond the control of the Racing Commission or its representatives prevent the split sample from being tested, then the results of tests performed by the primary laboratory shall be considered prima facie evidence of the condition of the horse.

50.3.n. If the results of the initial test on a specimen are negative, a Racing Commission veterinarian may discard the retained part of the specimen upon receipt of the negative result. If the result of the initial test on a specimen is positive, a Racing Commission veterinarian may discard the retained part of the specimen

after the expiration of the period during which an owner or trainer may request the retained part be sent for split testing.

50.3.o. The official chemist of the primary testing laboratory shall reveal the identity of the drug or drug metabolites to the split sample laboratory. Communication between the primary and split laboratory is limited to the exchange of the analytical method and the threshold level used to confirm the drug's identity.

50.3.p. The results of all tests performed by the primary testing laboratory are confidential and shall only be communicated to the chief steward, who shall notify the trainer in a timely manner.

50.3.q. A Racing Commission veterinarian, the stewards or authorized representatives of the Racing Commission may take samples of any medications or other materials suspected of containing improper medication or drugs which may be found in the stables or elsewhere on association grounds, or in the possession of any person connected with racing. A Racing Commission veterinarian shall deliver the sample of any medication or other materials suspected of containing improper medication to an official chemist for analysis under the same conditions as are prescribed for analysis of other specimens. The stewards may retain the sample.

50.3.r. No action shall be taken by the stewards on the report of an official chemist unless and until the medication or drug has been properly identified along with the identity of the horse from which the specimen was taken; nor until such time as an official report signed by the chemist has been received by the chief steward at the appropriate racetrack.

50.4. Alkalinizing Substances. The following provisions apply to the testing for alkalinizing substances:

50.4.a. The stewards or a Racing Commission veterinarian may, at their discretion and at any time, order the collection of specimens from any horse present on association grounds for determination of serum or plasma pH or concentration of bicarbonate, carbon dioxide, or electrolytes.

50.4.b. Pre-race specimen collection and pre-race testing may be done at a time and manner directed by a Racing Commission veterinarian.

50.4.c. Pre-race specimen collection and post-race testing may be done at a time and manner directed by a Racing Commission veterinarian. Pre-race specimens collected for post-race testing may be ordered by a Racing Commission veterinarian not to be frozen to ensure effective and reliable testing.

50.4.d. Post-race specimen collection and post-race testing may be done at a time and manner directed by a Racing Commission veterinarian.

50.4.e. If a TCO₂ specimen is collected post-race, it shall be taken from the horse no sooner than ninety minutes after racing.

50.4.f. Subsection 50.3 of this rule pertaining to specimen collection and subsection 50.5 of this rule pertaining to storage and shipment of split samples shall not apply to specimens collected for the testing for alkalinizing substances.

50.5. Storage and Shipment of Split Samples. The following provisions apply to the storage and shipment of split samples:

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

50.5.a.1. A Racing Commission veterinarian shall secure a split sample in the test barn under the same manner as the portion of the specimen acquired for shipment to a primary laboratory until the time that specimens are packed and secured for shipment to the primary laboratory. The Racing Commission veterinarian shall store the split urine sample in a freezer and the split blood sample in a refrigerator at secure location(s) approved by the Racing Commission;

50.5.a.2. A freezer and refrigerator for storage of split samples shall be opened only for depositing or removing split samples, for inventory, or for checking the condition of samples; and

50.5.a.3. A Racing Commission veterinarian shall immediately report any evidence of a malfunction of a split sample freezer/refrigerator or samples that are not in a frozen/refrigerated condition during storage to the stewards or a designated Racing Commission representative.

50.5.b. A trainer or owner of a horse, after notification that a written report from a primary laboratory states that a prohibited substance or illegal level of a permitted substance has been found in a specimen obtained pursuant to this rule, may request that a split sample corresponding to the portion of the specimen tested by the primary laboratory be sent for testing by a testing laboratory that is identified on the list of approved laboratories maintained by the Racing Commission.

50.5.c. Prior to shipment, the representative of the Racing Commission shall confirm the split sample laboratory's willingness to provide the testing requested, the laboratory's willingness to send results to the chief steward and arrangements for payment satisfactory to the split sample laboratory.

50.5.d. The request shall be made in writing and delivered to the stewards not later than seventy-two (72) hours after the trainer of the horse receives written notice of the findings of the primary laboratory. A Racing Commission veterinarian shall ship any requested split samples within seven (7) business days of the request.

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

50.5.f. The owner or trainer of a horse who submits a specimen for drug testing shall be present or have a representative present at the time that the retained part of the specimen is prepared for storage.

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

50.5.h. The owner or trainer requesting testing of a split sample is responsible for the cost of shipping and testing. Failure of the owner, trainer or designee to appear at the time and place of shipping designated by a Racing Commission veterinarian constitutes a waiver of all rights to split sample testing.

50.5.i. Prior to opening the split sample freezer/refrigerator, the Racing Commission shall provide a split sample chain of custody verification form that shall provide a place for recording the following information and any other information received by a Racing Commission veterinarian. The representative of the Racing Commission shall fully complete the form during the retrieval, packaging, and shipment of the split sample. The split sample chain of custody form shall contain:

50.5.i.1. the date and time the sample is removed from the split sample freezer/refrigerator;

50.5.i.2. the sample number;

50.5.i.3. the address where the split sample is to be sent;

50.5.i.4. the name of the carrier and the address where the sample is to be taken for shipment;

50.5.i.5. verification of retrieval of the split sample from the freezer/refrigerator;

50.5.i.6. verification of each specific step of the split sample packaging in accordance with the recommended procedure;

50.5.i.7. verification of the address of the split sample laboratory on the split sample package;

50.5.i.8. verification of the condition of the split sample package immediately prior to transfer of custody to the carrier; and

50.5.i.9. the date and time custody of the sample is transferred to the carrier.

50.5.j. A Racing Commission representative, in the presence of the owner or trainer, or his or her designee, shall remove a split sample from the split sample freezer/refrigerator.

50.5.k. The Racing Commission representative shall pack the split sample for shipment in the presence of the owner, or trainer, or designee in accordance with the packaging procedures set forth in this rule. A form shall be signed by both the owner or trainer or his or her designee and the Racing Commission representative to confirm the packaging of the split sample. The exterior of the package shall be secured and identified with initialed tape, evidence tape, or other means to prevent tampering with the package.

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

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

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

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

50.5.p. The split sample laboratory shall send a confidential written report on the result of its tests to the chief steward.

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

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

50.5.s. The owner or trainer shall be notified in writing of the results of the primary and split sample testing laboratories when confirmation of positives exist. When quantitative levels of permitted medications exceed the permitted levels, the level of the confirming laboratory, if lower than the primary laboratory report, shall be used as the basis for a violation and penalty.

§178-1-51. Trainer Responsibility.

51.1. The following provisions apply to the responsibilities of the trainer as they specifically relate to the health and well being of horses in his or her care, custody or control:

51.1.a. The trainer is the absolute insurer of and responsible for the condition of the horses he or she enters in an official workout or a race, regardless of the acts of third parties. If testing or analysis of urine, blood or other bodily substances or tissues prove positive showing the presence of any prohibited drug, medication or substance, the trainer of the horse may be fined, suspended, have his or her occupational permit revoked, be prohibited access to all grounds under the jurisdiction of the Racing Commission, or may be otherwise disciplined. In addition, the owner of the horse, the foreman in charge of the horse, the groom and any other person shown to have had the care, or attendance of the horse may be fined, suspended, have his or her occupational permit revoked, be prohibited access to all grounds under the jurisdiction of the Racing Commission, or may be otherwise disciplined.

51.1.b. The trainer is responsible for:

51.1.b.1. maintaining the assigned stable area in a clean, neat and sanitary condition at all times;

51.1.b.2. keeping all hay, grain and other feed covered and in a sanitary manner;

51.1.b.3. ensuring that fire prevention rules are strictly observed in the assigned stable area;

51.1.b.4. the proper identity, custody, care, health, condition and safety of horses in his or her charge;

51.1.b.5. ensuring that at the time of arrival at locations under the jurisdiction of the Commission a valid health certificate and a valid negative Equine Infectious Anemia (EIA) test certificate accompany each horse and which, where applicable, shall be filed with the association's racing secretary;

51.1.b.6. having each horse in his or her care that is racing, or is stabled on association grounds, tested for Equine Infectious Anemia (EIA) in accordance with state law and for filing evidence of the negative test results with the association's racing secretary;

51.1.b.7. using the services of those veterinarians holding an occupational permit issued by the Racing Commission to attend horses that are on association grounds;

51.1.b.8. immediately reporting the alteration of the sex of a horse to the horse identifier and the association's racing secretary no later than at the time of entry so that the information may be recorded on the foal certificate;

51.1.b.9. promptly reporting to the association's racing secretary and a Racing Commission veterinarian when a posterior digital neurectomy (heel nerving) is performed and ensuring that such fact is designated on its certificate of registration;

51.1.b.10. promptly notifying a Racing Commission veterinarian of any reportable disease and any unusual incidence of a communicable illness in any horse in his or her charge;

51.1.b.11. promptly reporting the serious injury and/or death of any horse at locations under the jurisdiction of the Racing Commission to the stewards and a Racing Commission veterinarian and compliance with subsection 52.2. of this rule governing racing soundness examinations;

51.1.b.12. maintaining a knowledge of the medication record and status of all horses in his or her care;

51.1.b.13. immediately reporting to the stewards and a Racing Commission veterinarian if he or she knows, or has cause to believe, that a horse in his or her custody, care or control has received any prohibited drugs or medication;

51.1.b.14. ensuring the fitness of a horse to perform creditably at the distance entered;

51.1.b.15. ensuring that every horse he/she has entered to race is present at its assigned stall for a pre-race soundness inspection;

51.1.b.16. ensuring that his or her horses are properly shod, bandaged and equipped; and

51.1.b.17. attending the collection of a specimen of urine, blood or other bodily substances or tissue or delegating such responsibility to an employee holding an occupational permit or to the owner.

§178-1-52. Physical Inspection of Horses.

52.1. Assessment of Racing Condition. The stewards and/or a Racing Commission veterinarian may order an examination at any time of any horse entered for a race or which has run in a race.

52.2. Pre-Race Examinations. The following provisions apply to pre-race examinations:

52.2.a. As required by subdivision 18.1.h. of this rule, one or more Racing Commission veterinarians shall conduct pre-race examinations on all potential starters on race day.

52.2.b. It shall be the trainer's responsibility to ensure that a horse that is a potential starter is on association grounds and in its assigned stall or at the pre-race examination area designated by a Racing Commission veterinarian for pre-race examination at least (4) four hours before post time of the race in which it is scheduled to start.

52.2.c. The trainer or his or her designee shall be present with the horse at the time specified in subdivision 52.2.b. of this rule for the pre-race examination and shall remain with the horse until the pre-race examination is completed.

~~52.2.~~ 52.3. Racing Soundness Post-Mortem Examinations. The following provisions apply to racing soundness post-mortem examinations:

~~52.2.a.~~ 52.3.a. A thoroughbred which suffers a breakdown on the race track, in training or in competition, and is euthanized, and every other thoroughbred which expires while stabled on a racetrack under the jurisdiction of the Racing Commission, may, in the discretion of a Racing Commission veterinarian, undergo an examination at a time and place acceptable to a Racing Commission veterinarian to determine the injury or sickness which resulted in euthanasia or death.

~~52.2.b.~~ 52.3.b. The examination allowed under this subsection will be conducted by a qualified professional selected by the Racing Commission or its designees.

~~52.2.c.~~ 52.3.c. Test specimens may be obtained from the expired or euthanized thoroughbred upon which the examination is conducted and may be sent to an official chemist approved by the Racing Commission for testing for foreign substances and natural substances at abnormal levels. When practical, specimens should be procured prior to euthanasia.

~~52.2.d.~~ 52.3.d. The Racing Commission shall be responsible for paying the costs of the examination conducted by its selected qualified professional. The Racing Commission shall also bear the costs of testing for foreign substances and natural substances at abnormal levels, if any such costs are incurred in connection with an examination. If any additional costs are incurred in connection with preserving and/or transporting an expired or euthanized thoroughbred for examination, the Racing Commission shall also bear those costs. If the owner of the deceased thoroughbred desires to have an examination and/or testing conducted independently of the examination and/or testing conducted by professionals selected by the Racing Commission, he or she shall bear the costs of such independent examination and/or testing.

~~52.2.e.~~ 52.3.e. A record of an examination performed by the qualified professional selected by the Racing Commission shall be filed with the Racing Commission within seventy-two (72) hours of the death or within such other period approved by the Racing Commission. A record of an examination performed at the request of the owner of the deceased thoroughbred shall be filed with the Racing Commission within such period of time as ordered by the Racing Commission.

~~52.2.f.~~ 52.4. Compliance. Each owner and trainer shall comply with this subsection as a requisite for maintaining the occupational permit issued by the Racing Commission.

§178-1-53. Isolation/Quarantine.

53.1. In case of any illness or unusual symptoms of illness in a horse which may be considered to be contagious, a Racing Commission veterinarian and/or the Commissioner of Agriculture have the authority to determine whether or not it is necessary to isolate or quarantine a horse. The decision of the Racing Commission veterinarian and/or the Commissioner of Agriculture with reference to the necessity of isolating any horse is binding upon the trainer and owner of the horse.

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

53.3. In the event of the positive diagnosis of any infectious disease, the diagnosed horse shall remain isolated and quarantined for a period of time determined by the Racing Commission veterinarian and/or the Commissioner of Agriculture.

53.4. No horse shall be removed from quarantine without permission of a Racing Commission veterinarian and/or the Commissioner of Agriculture.

53.5. The Racing Commission veterinarian shall immediately report all quarantines and removal from quarantines to the stewards.

**PART 9. WEST VIRGINIA THOROUGHBRED DEVELOPMENT FUND
AND ACCREDITED RACE FUND.**

§178-1-54. Eligibility.

54.1. 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.

54.2. Non-resident mares foaling in West Virginia shall be inspected and the owner of the non-resident mare shall complete an affidavit to be supplied by the Racing Commission.

54.3. All West Virginia bred, sired or raised horses shall be registered with the West Virginia thoroughbred breeders association to be eligible to participate in any phase of the West Virginia thoroughbred development fund.

§178-1-55. Accredited Race Fund.

55.1. To qualify for the West Virginia accredited race fund, the breeders must qualify under one of the following:

55.1.a. The breeder of the West Virginia bred foal is a West Virginia resident;

55.1.b. The breeder of the West Virginia bred foal is not a West Virginia resident, but keeps his or her breeding stock in West Virginia year-round, or

55.1.c. The breeder of the West Virginia bred foal is not a West Virginia resident and does not qualify under subdivision 55.1.b. above, but either the sire of the West Virginia bred foal is a West Virginia stallion, or the mare is covered only by a West Virginia accredited stallion or stallions before December 31 of the calendar year following the birth of that West Virginia bred foal.

TABLE 178-1 A

OCCUPATIONAL PERMIT FEES
 (Effective for calendar year 2012 and thereafter)

Stable Name	\$40.00
Corporation	\$40.00
Vendor	\$40.00
Owner (with registration of colors)	\$30.00
Owner-Trainer (same person)	\$60.00
Trainer	\$30.00
Assistant Trainer	\$30.00
Jockey	\$30.00
Apprentice Jockey	\$20.00
Jockey Agent	\$20.00
Practicing Veterinarian	\$30.00
Veterinarian's Assistant	\$20.00
Blacksmith	\$30.00
Authorized Agent (must apply for permit and pay permit fee for each person represented)	\$20.00
Mutuel Employee	\$20.00
Photographers, totalisator, film patrol	\$20.00
Stable Foreman	\$20.00
Starter	\$30.00
Assistant Starter	\$20.00
Association Racing Secretary	\$30.00
Association Assistant Racing Secretary	\$30.00
Paddock Judge	\$20.00

TABLE 178-1 A
continued

OCCUPATIONAL PERMIT FEES
(Effective for calendar year 2012 and thereafter)

Horsemen's Bookkeeper	\$20.00
Clerk of Scales	\$20.00
Clocker	\$20.00
Timer	\$20.00
Horse Identifier	\$20.00
Jockey Room Custodian	\$20.00
Placing Judge	\$20.00
Outrider	\$20.00
Stable Hand	\$20.00
Concession	\$20.00
Maintenance	\$20.00
Groom	\$20.00
Admission	\$20.00
Pony Riders	\$20.00
Parking	\$20.00
Security	\$20.00
Exercise Rider	\$20.00
Video Lottery employees	\$20.00
Others not specified	\$20.00

TABLE 178-1 B

JOCKEY MOUNT FEES

Purse	Winning Mount	Second Place Mount	Third Place Mount	Fourth Place Mount	Losing Mount
Up to \$5,999.00	10% of Win Purse	\$65.00	\$60.00	\$55.00	\$50.00
\$6,000.00 to \$7,799.00	10% of Win Purse	\$75.00	\$70.00	\$65.00	\$60.00
\$7,800.00 to \$9,999.00	10% of Win Purse	5% of Place Purse (\$78.00-\$99.00)	\$75.00	\$70.00	\$65.00
\$10,000.00 to \$17,999.00	10% of Win Purse	5% of Place Purse (\$100.00-\$149.99)	\$85.00	\$80.00	\$75.00
\$18,000.00 to \$24,999.00	10% of Win Purse	5% of Place Purse (\$150.00-\$249.99)	5% of Show Purse (\$90.00-\$124.99)	\$85.00	\$80.00
\$25,000.00 to \$49,999.00	10% of Win Purse	5% of Place Purse (\$250.00-\$499.99)	5% of Show Purse (\$125.00-\$249.99)	\$95.00	\$85.00
\$50,000.00 to \$74,999.00	10% of Win Purse	5% of Place Purse (\$500.00-\$749.99)	5% of Show Purse (\$250.00-\$374.99)	\$100.00	\$90.00
\$75,000.00 and up	10% of Win Purse	5% of Place Purse (\$750.00 and up)	5% of Show Purse (\$375.00 and up)	5% of Fourth Purse (\$187.50 and up)	\$105.00

TABLE 178-1C

REQUEST TO WEAR ADVERTISING AND PROMOTIONAL MATERIAL

DATE OF ENTRY _____

DATE OF RACE _____

RACETRACK: CHARLES TOWN MOUNTAINEER

RACE NUMBER _____

NAME OF RACE (STAKES IF APPLICABLE) _____

DESCRIPTION OF MATERIAL TO BE WORN: (Use a separate sheet if necessary)

NAME OF ADVERTISER, PROMOTIONAL BRAND OR SPONSOR:

NAME OF JOCKEY WEARING THE MATERIAL: _____

Signature of the Jockey or Agent

Date

Title (if applicable)

APPROVAL OF OWNER OR DULY AUTHORIZED AGENT

Signature

Date

Title

TABLE 178-1 C
continued

REQUEST TO WEAR ADVERTISING AND PROMOTIONAL MATERIAL

APPROVAL OF LICENSED RACING ASSOCIATION

Signature

Date

Title

APPROVAL OF THE STEWARDS

Signature

Date

Signature

Date

Signature

Date

Table 178-1 D

**Association of Racing Commissioners International, Inc.
Drug Testing Standards and Practices Program
Model Rules Guidelines**



**Uniform Classification Guidelines for Foreign Substances
and
Recommended Penalties and Model Rule**

**Version 1-1-3.00
Revised January December 2011**

Association of Racing Commissioners International, Inc. Uniform Classification Guidelines for Foreign Substances

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Preamble to the Uniform Classification Guidelines of Foreign Substances

The Preamble to the Uniform Classification Guidelines was approved by the RCI Drug Testing and Quality Assurance Program Committee (now the Drug Testing Standards and Practices Program Committee) on August 26, 1991. Minor revisions to the Preamble were made by the Drug Classification Subcommittee (now the Veterinary Pharmacologists Subcommittee) on September 3, 1991.

"The Uniform Classification Guidelines printed on the following pages are intended to assist stewards, hearing officers and racing commissioners in evaluating the seriousness of alleged violations of medication and prohibited substance rules in racing jurisdictions. Practicing equine veterinarians, state veterinarians, and equine pharmacologists are available and should be consulted to explain the pharmacological effects of the drugs listed in each class prior to any decisions with respect to penalties to be imposed. The ranking of drugs is based on their pharmacology, their ability to influence the outcome of a race, whether or not they have legitimate therapeutic uses in the racing horse, or other evidence that they may be used improperly. These classes of drugs are intended only as guidelines and should be employed only to assist persons adjudicating facts and opinions in understanding the seriousness of the alleged offenses. The facts of each case are always different and there may be mitigating circumstances which should always be considered. These drug classifications will be reviewed frequently and new drugs will be added when appropriate."

Notes Regarding Classification Guidelines

- Where the use of a drug is specifically permitted by a jurisdiction, then the jurisdiction's rule supersedes these penalty guidelines.
- Regulators should be aware that a laboratory report may identify a drug only by the name of its metabolite. The metabolite might not be listed here, but the parent compound may be.
- These classes of drugs are intended only as guidelines and should be employed only to assist persons adjudicating facts and opinions in understanding the seriousness of the alleged offenses.
- The facts of each case are different and there may be mitigating circumstances that should be considered.
- These drug classifications will be reviewed periodically. New drugs will be added or some drugs may be reclassified when appropriate.

Classification Criteria

The RCI Drug Classification Scheme is based on 1) pharmacology, 2) drug use patterns, and 3) the appropriateness of a drug for use in the racing horse. Categorization is decided using the following general guidelines:

- **Pharmacology.** Drugs that are known to be potent stimulants or depressants are placed in higher classes, while those that have (or would be expected to have) little effect on the outcome of a race are placed in lower classes.
- **Drug Use Patterns.** Some consideration is given to placement of drugs based on practical experience with their use and the nature of positive tests. For example, procaine positives have in the past been associated primarily with the administration of procaine penicillin, and this has been taken into consideration in the placement of procaine into Class 3 instead of Class 2 with other injectable local anesthetics.
- **Appropriateness of Drug Use.** Drugs that clearly are intended for use in equine therapeutics are placed in lower classes. Drugs that clearly are not intended for use in the horse are placed in higher classes, particularly if they might affect the outcome of a race. Drugs that are recognized as legitimately useful in equine therapeutics but could affect the outcome of a race are placed in the middle or higher classes.

The list includes most drugs that have been reported as detected by racing authority laboratories in the United States, Canada, the United Kingdom and other Association of Official Racing Chemists (AORC) laboratories, but does not include those which would seem to have no effect on the performance of the horse or drug detectability. For example, it does not include antibiotics, sulfonamides, vitamins, anthelmintics, or pangamic acid, all of which have been reported.

The list contains many drugs that have never been reported as detected. Usually, these are representatives of chemical classes that have the potential for producing an effect, and in many cases, for which at least one drug in that chemical class has been reported.

Most drugs have numerous effects, and each was judged on an individual basis. There are instances where there is a rather fine distinction between drugs in one category and those in the next. This is a reflection of a nearly continuous spectrum of effects from the most innocuous drug on the list to the drug that is the most offensive.

Classification Definitions

- **Class 1:** Stimulant and depressant drugs that have the highest potential to affect performance and that have no generally accepted medical use in the racing horse. Many of these agents are Drug Enforcement Agency (DEA) schedule II substances. These include the following drugs and their metabolites: Opiates, opium derivatives, synthetic opioids and psychoactive drugs, amphetamines and amphetamine-like drugs as well as related drugs, including but not limited to apomorphine, nikethamide, mazindol, pemoline, and pentylentetrazol. Though not used as therapeutic agents, all DEA Schedule 1 agents are included in Class 1 because they are potent stimulant or depressant substances with psychotropic and often habituating actions.
- **Class 2:** Drugs that have a high potential to affect performance, but less of a potential than drugs in Class 1. These drugs are 1) not generally accepted as therapeutic agents in racing horses, or 2) they are therapeutic agents that have a high potential for abuse. Drugs in this class include: psychotropic drugs, certain nervous system and cardiovascular system stimulants, depressants, and neuromuscular blocking agents. Injectable local anesthetics are included in this class because of their high potential for abuse as nerve blocking agents.
- **Class 3:** Drugs that may or may not have generally accepted medical use in the racing horse, but the pharmacology of which suggests less potential to affect performance than drugs in Class 2. Drugs in this class include bronchodilators, anabolic steroids and other drugs with primary effects on the autonomic nervous system, procaine, antihistamines with sedative properties and the high-ceiling diuretics.
- **Class 4:** This class includes therapeutic medications that would be expected to have less potential to affect performance than those in Class 3. Drugs in this class include less potent diuretics; corticosteroids; antihistamines and skeletal muscle relaxants without prominent central nervous system (CNS) effects; expectorants and mucolytics; hemostatics; cardiac glycosides and anti-arrhythmics; topical anesthetics; anti-diarrheals and mild analgesics. This class also includes the non-steroidal anti-inflammatory drugs (NSAIDs), at concentrations greater than established limits.
- **Class 5:** This class includes those therapeutic medications for which concentration limits have been established by the racing jurisdictions as well as certain miscellaneous agents such as dimethylsulfoxide (DMSO) and other medications as determined by the regulatory bodies. Included specifically are agents that have very localized actions only, such as anti-ulcer drugs, and certain anti-allergic drugs. The anticoagulant drugs are also included.

● **Prohibited Practices:**

- A) The possession and/or use of a drug, substance or medication, specified below, on the premises of a facility under the jurisdiction of the regulatory body for which a recognized analytical method has not been developed to detect and confirm the administration of such substance; or the use of which may endanger the health and welfare of the horse or endanger the safety of the rider or driver; or the use of which may adversely affect the integrity of racing:
 - 1) Erythropoietin
 - 2) Darbepoietin
 - 3) Oxyglobin
 - 4) Hemopure

- B) The possession and/or use of a drug, substance, or medication on the premises of a facility under the jurisdiction of the regulatory body that has not been approved by the United States Food and Drug Administration (FDA) for use in the United States.

- C) The practice, administration, or application of a treatment, procedure, therapy or method identified below, which is performed on the premises of a facility under jurisdiction of a regulatory body and which may endanger the health and welfare of the horse or endanger the safety of the rider or driver, or the use of which may adversely affect the integrity of racing:

Drug Classification Scheme

- **Class 1:** Opiates, opium derivatives, synthetic opioids, psychoactive drugs, amphetamines, and all DEA Schedule I substances (see <http://www.usdoj.gov/dea/pubs/scheduling.html>), and many DEA Schedule II drugs. Also found in this class are drugs that are potent stimulants of the CNS. Drugs in this class have no generally accepted medical use in the racing horse and their pharmacologic potential for altering the performance of a racing horse is very high.
- **Class 2:** Drugs placed in this category have a high potential for affecting the outcome of a race. Most are not generally accepted as therapeutic agents in the racing horse. Many are products intended to alter consciousness or the psychic state of humans, and have no approved or indicated use in the horse. Some, such as injectable local anesthetics, have legitimate use in equine medicine, but should not be found in a racing horse. The following groups of drugs are placed in this class:
 - A. Opiate partial agonists, or agonist-antagonists.
 - B. Non-opiate psychotropic drugs. These drugs may have stimulant, depressant, analgesic or neuroleptic effects.
 - C. Miscellaneous drugs, which might have a stimulant effect on the CNS.
 - D. Drugs with prominent CNS depressant action.
 - E. Anti-depressant and antipsychotic drugs, with or without prominent CNS stimulatory or depressant effects.
 - F. Muscle blocking drugs - those that have a direct neuromuscular blocking action.
 - G. Local anesthetics that have a reasonable potential for use as nerve-blocking agents (except procaine).
 - H. Snake venoms and other biologic substances that may be used as nerve-blocking agents.
- **Class 3:** Drugs placed in this class may or may not have an accepted therapeutic use in the horse. Many are drugs that affect the cardiovascular, pulmonary and autonomic nervous systems. They all have the potential of affecting the performance of a racing horse. The following groups of drugs are placed in this class:
 - A. Drugs affecting the autonomic nervous system that do not have prominent CNS effects, but which do have prominent cardiovascular or respiratory system effects. Bronchodilators are included in this class.
 - B. A local anesthetic that has nerve-blocking potential but also has a high potential for producing urine residue levels from a method of use not related to the anesthetic effect of the drug (procaine).
 - C. Miscellaneous drugs with mild sedative action, such as the sleep-inducing antihistamines.
 - D. Primary vasodilating/hypotensive agents.
 - E. Potent diuretics affecting renal function and body fluid composition.
 - F. Anabolic and/or androgenic steroids and other drugs.

- **Class 4:** Drugs in this category comprise primarily therapeutic medications routinely used in racehorses. These may influence performance, but generally have a more limited ability to do so. Groups of drugs assigned to this category include the following:

- A. Non-opiate drugs that have a mild central antipyretic effect.
- B. Drugs affecting the autonomic nervous system that do not have prominent CNS, cardiovascular, or respiratory effects:
 1. Drugs used solely as topical vasoconstrictors or decongestants.
 2. Drugs used as gastrointestinal antispasmodics.
 3. Drugs used to void the urinary bladder.
 4. Drugs with a major effect on CNS vasculature or smooth muscle of visceral organs.
- C. Antihistamines that do not have a significant CNS depressant effect. This does not include the H2 blocking agents, which are in Class 5.
- D. Mineralocorticoid drugs.
- E. Skeletal muscle relaxants.
- F. Anti-inflammatory drugs. These drugs may reduce pain as a consequence of their anti-inflammatory action.
 1. Non-steroidal anti-inflammatory drugs (NSAIDs). (Aspirin-like drugs).
 2. Corticosteroids (glucocorticoids).
 3. Miscellaneous anti-inflammatory agents.
- G. Less potent diuretics.
- H. Cardiac glycosides and antiarrhythmic agents.
 1. Cardiac glycosides.
 2. Antiarrhythmic agents (exclusive of lidocaine, bretylium, and propranolol).
 3. Miscellaneous cardiotoxic drugs.
- I. Topical Anesthetics - agents not available in injectable formulations.
- J. Antidiarrheal drugs.
- K. Miscellaneous drugs:
 1. Expectorants with little or no other pharmacologic action.
 2. Stomachics.
 3. Mucolytic agents.

- **Class 5:** Drugs in this category are therapeutic medications for which concentration limits have been established by the racing jurisdictions as well as certain miscellaneous agents. Included specifically are agents that have very localized actions only, such as anti-ulcer drugs, and certain antiallergic drugs. The anticoagulant drugs are also included.

Alphabetical List

Drug/Substance **Trade Name(s)** **Class** **Penalty** **Drug/Substance** **Trade Name(s)** **Class** **Penalty**

3,4-methylenedioxyprovalerone	MDPV, "bath salts"	1	A	Aminonide	Cyclocort	4	C
Acebutolol	Sectral	3	B	Amiloride	Moduretic; Midamor	4	B
Acecarbromal		2	A	Aminocaproic acid	Amicar, Caprocid	4	C
Acenocoumarol		5	C	Amiodarone		4	B
Acepromazine	Atrovet, Notensil, PromAce®	3	B	2-Aminoheptane	Tuamine	4	B
Acetaminophen (Paracetamol)	Tylenol, Tempra, etc.	4	C	Aminophylline	Aminophyllin, etc.	3	B
Acetanilid		4	B	Aminopyrine		4	B
Acetazolamide	Diamox, Vetamox	4	B	Amisometradine	Rolictron	4	B
Acetophenazine	Tindal	2	A	Amisulpride	Solian	2	A
Acetophenetidin (Phenacetin)		4	B	Amitraz	Mitaban	3	A
Acetylsalicylic acid (Aspirin)		4	C	Amitriptyline	Elavil, Amitril, Endep	2	A
Alclomethasone	Aclovote	4	C	Amlodipine	Ammivin, Norvasc	4	B
Adinazolam		4	C	Amobarbital	Amytal	2	A
Adrenochrome monosemicarbazone salicylate		2	A	Amoxapine	Asendin	2	A
Albuterol (Salbutamol)	Proventil, Ventolin	4	B	Amperozide		2	A
Alclofenac		3	B	Amphetamine		1	A
Alcuronium	Alloferin	2	A	Amrinone		4	B
Aldosterone	Aldocortin, Electroscortin	2	A	Amyl nitrite		3	A
Alfentanil	Alfenta	4	B	Anileridine	Leritine	1	A
Almotriptan	Axert	1	A	Anilopam	Anisine	2	A
Alphaprodine	Nisentil	3	A	Anisindione		5	C
Alpidem	Anaxyl	2	A	Anisotropine	Valpin	4	B
Alprazolam	Xanax	2	A	Antipyrene		4	B
Alprenolol		3	A	Apazone (Azapropazone)	Rheumox	4	B
Althesin	Saffan	2	A	Apomorphine		1	A
Ambenonium	Mytelase, Myeuran	2	A	Aprindine		4	B
Ambroxol	Ambriil, etc.	3	B	Aprobarbital	Alurate	2	A
		4	B	Arecoline		3	A
				Arformoterol		3	A

Alphabetical List

Trade Name(s) Class Penalty Drug/Substance Trade Name(s) Class Penalty Class Penalty

Articaine	Septocaine; Ultracaine, etc.	2	A	Bethanechol	Urecholine, Duvoid	4	C
Atenolol	Tenormin	3	B	Bethanidine	Esbatal	3	A
Atomoxetine	Strattera	2	A	Biperiden	Akineton	3	A
Atracurium	Tracrium	2	A	Biriperone		2	A
Atropine		3	B	Bisoprolol	Zebeta, Bisobloc, etc.	3	B
Azacylonol	Frenque	2	A	Bitolterol	Effectin	3	A
Azaperone	Stresnil, Suicalm, Fentaz (with Fentanyl)	2	A	Bolasterone		3	A
Baclofen	Lioresal	4	B	Boldenone	Equipoise	3	B
Barbital	Veronal	2	A	Boldione		3	A
Barbiturates		2	A	Bretylium	Bretylol	3	B
Beclomethasone	Propaderm	4	C	Brimonidine	Alphagan	2	A
Bemegride	Megimide, Mikedimide	2	A	Bromazepam	Lexotan, Lectopam	2	A
Benazeprilat, Benazepril and MC-tab	Lotrel, Lotensin	3	A	Bromfenac	Duract	3	A
Bendroflumethiazide	Naturetin	4	B	Bromhexine	Oletor, etc.	4	B
Benoxaprofen		2	A	Bromisovalum	Diffucord, etc.	2	A
Benoxinate	Dorsacaine	4	C	Bromocriptine	Parlodel	2	A
Benperidol	Anquil	2	A	Bromodiphenhydramine		3	B
Bentazepam	Tiadipona	2	A	Bromperidol	Bromidol	2	A
Benzactizine	Deprol, Bronchodilletten	2	A	Brompheniramine	Dimetane, Disomer	4	B
Benzocaine		4	B	Brotizolam	Brotocol	2	A
Benzocetamine		2	A	Budesonide	Pulmacort, Rhinocort	4	C
Benzodiazepines		2	A	Bufexamac		3	A
Benzphetamine	Didrex	2	A	Bumetanide	Bumex	3	B
Benzthiazide		4	B	Bupivacaine	Marcaine	2	A
Benztropine	Cogentin	2	A	Buprenorphine	Temgesic	2	A
Benzylpiperazine (BZP)		1	A	Bupropion	Wellbutrin	2	A
Bepriidil	Bepadin	4	B	Buspirone	Buspar	2	A
Betamethasone	Betasono, etc.	4	C	Butabarbital (Secbutobarbitone)	Butacaps, Butasol, etc.	2	A
Betaxolol	Kerlone	3	B	Butacaine	Butyn	4	B
				Butalbital (Talbutal)	Fiorinal	2	A

Alphabetical List

Drug/Substance **Trade Name(s)** **Class** **Penalty** **Drug/Substance** **Trade Name(s)** **Class** **Penalty**

Butamben (butyl aminobenzoate)	Butesin	4	C	Cathinone (khat, kat, quat, chat, catha, Abyssinian tea, African tea)		1	A
Butanilcaine	Hostacain	2	A	Celecoxib	Celebrex	3	B
Butaperazine	Repoise	2	A	Cetirizine	Zyrtec	4	B
Butoctamide	Listomin	2	A	Chloral betaine	Beta-Chlor	2	A
Butorphanol	Stadol, Torbugesic	3	B	Chloral hydrate	Nactec, Oridrate, etc.	2	A
Butoxyacaine	Stadacain	4	B	Chloraldehyde (chloral)		2	A
N-Butylscopolamine		3	B	Chloralose (Alpha-Chloralose)		2	A
Caffeine		2	B	Chlordiazepoxide	Librium	2	A
Calusterone	Methosorb	3	B	Chlorhexidol		2	A
Camazepam	Paxor	2	A	Chlormerodrin	Neohydrin	4	B
Camphor		4	C	Chlormezanone	Trancopal	2	A
Candesartan	Atcand	3	B	Chloroform		2	A
Captodiamine	Covatine	2	A	Chlorophenesin	Maolate	4	BC
Captopril	Capolen	3	B	Chloroprocaine	Nesacaine	2	A
Carazolol	Carbacef, Conduction	3	A	Chloroquine	Avloclor	4	C
Carbachol	Lentin, Doryl	3	B	Chlorothiazide	Diuril	4	B
Carbamezapine	Tegretol	3	B	Chlorpheniramine	Chlortrimton, etc.	4	B
Carbazochrome		4	C	Chlorproethazine	Newiplege	2	A
Carbidopa + levodopa	Sinemet	2	A	Chlorpromazine	Thorazine, Largactil	2	A
Carbinoxamine	Clistin	3	B	Chlorprothixene	Taractan	2	A
Carbromol	Mifudorm	2	A	Chlorthalidone	Hydroton	4	B
Carfentanil		1	A	Chlorzoxazone	Paraflex	4	B
Carisoprodol	Rela, Soma	2	B	Ciclesonide		4	B
Carphenazine	Proketazine	2	A	Cilostazol	Pletal	5	C
Carpipramine	Prazinil	2	A	Cimetrol		3	A
Carprofen	Rimadyl	4	B	Cimetidine	Tagamet	5	D
Carteolol	Cartrol	3	B	Cinchocaine	Nupercaine	4	C
Carticaine (see articaine)	Septocaine; Ultracaine, etc.	2	A	Citalopram	Celex	2	A
Carvedilol	Coreg	3	B	Clanobutin		4	B

Alphabetical List

Drug/Substance

Trade Name(s)

Class

Penalty

Drug/Substance

Trade Name(s)

Class

Drug/Substance	Trade Name(s)	Class	Penalty	Drug/Substance	Trade Name(s)	Class
Clemastine	Tavist	3	B	Cyclandelate	Cyclospasmol	3 A
Clenbuterol	Ventipulmin	3	B	Cyclizine	Merazine	4 B
Clibucaine	Batrax	4	C	Cyclobarbitol	Phanodorm	2 A
Clidinium	Quarezan, Clindex, etc.	3	B	Cyclobenzaprine	Flexeril	4 B
Clobazam	Urbanyl	2	A	Cyclomethylcaine	Surfacaine	4 C
Clobetasol	Temovate	4	C	Cyclothiazide	Anhydron, Renazide	4 B
Clocapramine		2	A	Cycrimine	Pagitane	3 B
Clocortolone	Cloderm	4	C	Cyproheptadine	Periactin	4 C
Clofenamide		4	B	Danazol	Danocrine	3 B
Clomethiazole (Chlormethiazole)		2	A	Dantrolene	Dantrium	4 C
Clomipramine	Anafranil	2	A	Darbepoetin	Aranesp	2 A
Clonazepam	Klonopin	2	A	Decamethonium	Syncurine	2 A
Clonidine	Catapres	3	B	Dehydrochloromethyltestosterone		3 B
Clorazepate	Tranxene	2	A	Dembroxol (Dembrexine)	Sputolysin	4 C
Clormecaine	Placacid	4	C	Demoxepam		2 A
Clostebol		3	B	Deoxycorticosterone	Percortin, DOCA, Descotone, Dorcostrin	4 C
Clothiapine	Entermin	2	A	DeraΔcoxib	Deremaxx	3 B
Clotiazepam	Trecalmo, Rize	2	A	Dermorphin		1 A
Cloxazolam	Enadel, Sepazon, Tolestan	2	A	Desipramine	Norpromine, Pertofrane	2 A
Clozapine	Clozaril, Leponex	2	A	Desonite	Des Owen	4 C
a-Cobratoxin		1	A	Desoximetasone	Topicort	4 C
Cocaine		1	B	Desoxymethyltestosterone		3 B
Codeine		1	A	Detomidine	Dormosedan	3 B
Colchicine		4	B	Dexamethasone	Azium, etc.	4 C
Conorphone		2	A	Dextromethorphan		4 B
Corticaine	Ultracain	2	A	Dextromoramide	Palfium, Narcolo	1 A
Cortisone	Cortone, etc.	4	C	Dextropropoxyphene	Darvon	3 B
Cromolyn	Intel	5	C	Dezocine	Dalgan	2 A
Crotetamide		2	A	Diamorphine		1 A
Cyamemazine	Tercian	2	A	Diazepam	Valium	2 B

Alphabetical List

Drug/Substance **Trade Name(s)** **Class** **Penalty** **Drug/Substance** **Trade Name(s)** **Class** **Penalty**

Diazoxide	Proglycem	3	B	Dobutamine	Dobutrex	3	B
Dibucaine	Nupercainal, Cinchocaine	4	C	Dopamine	Intropin	2	A
Dichlorophenazone	Febenol, Isocom	2	A	Donepezil	Aricept	1	A
Dichlorphenamide	Daramide	4	C	Doxacurium	Nuromax	2	A
Diclofenac	Voltaren, Voltarol	4	C	Doxapram	Dopram	2	A
Dicumarol	Dicumarol	5	C	Doxazosin		3	A
Diethylpropion	Tepanil, etc.	2	A	Doxefazepam	Doxans	2	A
Diethylthiambutene	Themalon	2	A	Doxepin	Adapin, Sinequan	2	A
Diflorasone	Florone, Maxiflor	4	C	Doxylamine	Decapryn	3	B
Diflucortolone	Flu-Cortinest, etc.	4	C	Dromostanolone	Drolban	3	B
Diflunisal		3	B	Droperidol	Inapsine, Droleptan, Innovar-Vet (with Fentanyl)	2	A
Digitoxin	Crystodigin	4	B	Duloxetine		2	A
Digoxin	Lanoxin	4	B	Dyclonine	Dyclone	4	C
Dihydrocodeine	Parcodin	2	A	Dyphylline		3	B
Dihydroergotamine		4	B	Edrophonium	Tensilon	3	B
Dilorzepam	Briantum	2	A	Eletripan	Relpax	3	A
Diltiazem	Cardizem	4	B	Eitenac		4	C
Dimeflene		3	A	Enalapril (metabolite enalaprilat)	Vasotec	3	B
Dimethisoquin	Quotane	4	B	Enciprazine		2	A
Dimethylsulfoxide (DMSO)	Domoso	4	C	Endorphins		1	A
Dimethylsulphone (MSM)		5	C	Enkephalins		1	A
Diphenadione		5	C	Ephedrine		2	A
Diphenhydramine	Benadryl	3	B	Epibatidine		2	A
Diphenoxylate	Difenoxin, Lomotil	4	B	Epinephrine		2	A
Diprenorphine	M50/50	2	A	Ergolid mesylates (dihydroergocornine mesylate, dihydroergocristine mesylate, and dihydroergocryptine mesylate)		2	A
Dipyridamole	Persantine	3	B	Ergonovine	Ergotrate	4	C
Dipyrrone	Novin, Methampyrone	4	C				
Disopyramide	Norpace	4	B				
Divalproex	Depakote	3	A				
Dixyrazine	Esucos	2	A				

Alphabetical List

Drug/Substance **Trade Name(s)** **Class** **Penalty** **Drug/Substance** **Trade Name(s)** **Class** **Penalty**

Ergotamine	Gynergen, Cafergot, etc.	4	B	Etorphine HCl	M99	1	A
Ethiryl tetranitrate	Cardilate	3	A	Famotidine	Gaster, etc.	5	D
Erythropoietin(EPO)	Epogen, Procrit, etc.	2	A	Felbamate	Felbatol	3	A
Esmolol	Brevibloc	3	B	Felodipine	Plendil	4	B
Esomeprazole	Nexium	5	D	Fenarbamate	Tymium	2	A
Estazolam	Domnamid, Eurodin, Nuactalon	2	A	Fenbufen	Cincopal	3	B
Etamiphylline		3	B	Fenclozic acid	Myalex	2	A
Etanercept	Enbrel	4	B	Fenfluramine	Pondimin	2	A
Ethacrynic acid	Edecrin	3	B	Fenoldopam	Coriopam	3	B
Ethamivan		2	A	Fenopropfen	Nalfon	3	B
Ethanol		2	A	Fenoterol	Berotec	3	B
Ethchlorvynol	Placidyl	2	A	Fenspiride	Respiride, Respan, etc	3	B
Ethinamate	Valmid	2	A	Fentanyl	Sublimaze	1	A
Ethoheptazine	Zactane	4	B	Fentiazac		3	B
Ethopropazine	Parsidol	2	A	Fexofenadine	Allegra	4	C
Ethosuximide	Zarontin	3	A	Firocoxib		4	B
Ethotoin	Peganone	4	B	Flecanide	Idalon	4	B
Ethoxzolamide	Cardrase, Ethamide	4	C	Floctafenine	Idalon, Idarac	4	B
Ethylaminobenzoate (Benzocaine)	Semets, etc.	4	C	Fluanisone	Sedalande	2	A
Ethylestrenol	Maxibolin, Organon	3	B	Flucinolone	Synalar, etc.	4	C
Ethylisobutrazine	Diquel	2	A	Fludiazepam	Erispam	2	A
Ethylmorphine	Dionin	1	A	Fludrocortisone	Alforone, etc.	4	C
Ethinorepinephrine	Bronkephrine	3	A	Flufenamic acid		3	B
Etidocaine	Duranest	2	A	Flumethasone	Flucort, etc.	4	C
Etifoxin	Stresam	2	A	Flumethiazide	Ademol	4	B
Etizolam	Depas, Pasaden	2	A	Flunarizine	Sibelium	4	B
Etodolac	Lodine	3	B	Flunisolide	Bronilide, etc.	4	C
Etodroxizine	Indunox	2	A	Flunitrazepam	Rohypnol, Narcozep, Darkene, Hypnodorm	2	A
Etomidate		2	A	Flunixin	Banamine	4	C*
				Fluocinolone	Synalar	4	C
				Fluocinonide	Licon, Lidex	4	C

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Drug/Substance **Trade Name(s)** **Class** **Penalty** **Drug/Substance** **Trade Name(s)** **Class** **Penalty**

Flupromazine	Psyquil, Siquil	2	A	Guaifenesin (glycerol guaiacolate)	Gecolate	4	C
Fluoresone	Caducid	2	A	Guanadrel	Hylarel	3	A
Fluorometholone	FML	4	B	Guanethidine	Ismelin	3	A
Fluoroprednisolone	Predef-2X	4	C	Guanabenz	Wytensin	3	B
Fluoxetine	Prozac	2	A	Halazepam	Paxipam	2	A
Fluoxymesterone	Halotestin	3	B	Halcinonide	Halog	4	C
Flupentixol	Depixol, Fluaxsol	2	A	Halobetasol	Ultravate	4	C
Fluphenazine	Prolixin, Permittil, Anatsensol, etc.	2	A	Haloperidol	Haldol	2	A
Flupirtine	Katadolone	3	A	Haloxazolam	Somelin	2	A
Fluprednisolone	Alphadrol	4	C	Hemoglobin glutamers	Oxyglobin Hemopure	2	A
Flurandrenolide	Cordran	4	C	Heptaminol	Corofundol	3	B
Flurazepam	Dalmane	2	A	Heroin		1	A
Flurbiprofen	Froben	3	B	Hexafluorenum	Myalexen	2	A
Fluspirlene	Imap, Redeptin	2	A	Hexobarbital	Evipal	2	A
Fluticasone	Flixonase, Flutide	4	C	Hexocycium	Tral	4	C
Flutoprazepam	Restas	2	A	Hexylcaine	Cyclaine	4	C
Fluvoxamine	Dumirox, Faverin, etc.	2	A	Homatropine	Homapin	3	B
Formebolone		3	B	Homophenazine	Pelvichthol	2	A
Formoterol	Altram	3	B	Hydralazine	Apresoline	3	B
Fosinopril, metabolite, Fosinoprilat	Monopril	3	A	Hydrochlorothiazide	Hydrodiuril	4	B
Fosphenytoin	Cerebyx	3	B	Hydrocodone (dihydrocodienone)	Hycodan	1	A
Furazabol		3	B	Hydrocortisone (Cortisol)	Cortef, etc.	4	C
Furosemide	Lasix	N/A		Hydroflumethiazide	Saluron	4	B
Gabapentin	Neurontin	4	B	Hydromorphone	Dilaudid	1	A
Galantamine	Reminyl	2	A	Hydroxyamphetamine	Paradrine	1	A
Gallamine	Flaxedil	2	A	4-Hydroxytestosterone		3	B
Gepirone		2	A	Hydroxyzine	Atarax	2	B
Gestrinone		3	A	Ibomal	Noctal	2	A
Glutethimide	Doriden	2	A	Ibuprofen	Motrin, Advil, Nurpin, etc.	4	C
Glycopyrrolate	Robinul	3	B				

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Drug/Substance Trade Name(s) Class Penalty Drug/Substance Trade Name(s) Class Penalty

Class				Class			
Ibutilide	Covert	3	B	Letosteine	Viscotiol, Visiotol	4	C
Iloprost	Ventavis	3	A	Levamisole		2	B
Imipramine	Imavate, Presamine, Tofranil	2	A	Levobunolol	Betagan	3	B
Indomethacin	Indocin	3	B	Levomethorphan		2	A
Infliximab	Remicade	4	B	Lemorphanol	Levo-Dremoran	1	A
Ipratropium		3	B	Lidocaine	Xylocaine	2	B
Irbesartan	Avapro	3	A	Lisinopril	Prinivil, Zestril	3	A
Isapirone		2	A	Lithium	Lithizine, Duralith, etc.	2	A
Isocarboxazid	Marplan	2	A	Lobeline		2	A
Isoetharine	Bronkosal	3	B	Lofentanil		1	A
Isoflupredone	Predef	4	C	Loflazepate, Ethyl	Victan	2	A
Isomethadone		2	A	Loperamide	Imodium	2	A
Isomethheptene	Octin, Octon	4	B	Loprazolam	Dormonort, Havlane	2	A
Isopropamide	Darbid	4	B	Loratidine	Claritin	4	B
Isoproterenol	Isoprel	2	A	Lorazepam	Ativan	2	A
Isosorbide dinitrate	Isordil	3	B	Lormetazepam	Noctamid	2	A
Isoxicam	Maxicam	2	A	Losartan	Hyzaar	3	B
Isoxsuprine	Vasodilan	4	C	Loxapine	Laxitane	2	A
Isradipine	DynaCirc	4	B	Mabuterol		3	A
Kebuzone		3	B	Maprotiline	Ludiomil	2	A
Ketamine	Ketalar, Ketaset, Vetalar	2	B	Mazindol	Sanorex	1	A
Ketazolam	Anxon, Laftram, Solatran, Loftran	2	A	Mebutamate	Axiten, Dormate, Capla	2	A
Ketoprofen	Orudis	4	C*	Mecamylamine	Inversine	3	B
Ketorolac	Toradol	3	A	Mecizine	Antivert, Bonine	4	B
Labetalol	Normodyne	3	B	Meclofenamic acid	Arquel	4	C
Lamotrigine	Lamictal	3	A	Meclofenoxate	Lucidril, etc.	2	A
Lansoprazole		5	D	Medazepam	Nobrium, etc.	2	A
Lenperone	Elanone-V	2	A	Medetomidine	Domitor	3	B
				Medrysone	Medriusar, etc.	4	C
				Mefenamic acid	Ponstel	3	B

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Drug/Substance **Trade Name(s)** **Class** **Penalty** **Drug/Substance** **Trade Name(s)** **Class** **Penalty**

Meloxicam	Mobic	4	B	Methacholine			3	A
Melperone	Eunerpan	2	A	Methadone	Dolophine		1	A
Mernantine	Namenda	2	A	Methamphetamine	Desoxyn		1	A
Meparfynol	Oblivon	2	A	Methandienone			3	B
Mepazine	Pacatal	2	A	Methandriol	Proboloc		3	B
Mepenzolate	Cantil	3	A	Methandrostrenolone	Dianabol		3	A
Meperidine	Demerol	1	A	Methantheline	Banthane		3	B
Mephenesin	Tolserol	4	B	Methapyriene	Histadyl, etc.		4	B
Mephenoqualone	Control, etc.	2	A	Methaqualone	Quaalude		1	A
Mephentermine	Wyamine	1	A	Metharbital	Gemonil		2	A
Mephentyoin	Mesantoin	2	A	Methasterone			3	A
Mephobarbital (Methylphenobarbital)	Mebaral	2	A	Methazolamide	Naptazane		4	C
Mepivacaine	Carbocaine	2	B	Methcathinone			1	A
Meprobamate	Equanil, Miltown	2	A	Methdilazine	Tacaryl		4	B
Meralluride	Mercuhydrin	4	B	Methixene	Trest		3	A
Merbaphen	Novasural	4	B	Methocarbamol	Robaxin		4	C
Mercaptopmerin	Thiomerin	4	B	Methohexital	Brevital		2	A
Mercumallin	Cumertilin	4	B	Methotrexate	Folex, Nexate, etc.		4	B
Mersalyl	Salyrgan	4	B	Methotrimeprazine	Levoprome, Neurocil, etc.		2	A
Mesalamine	Asacol	5	C	Methoxamine	Vasoxyl		3	A
Mesoridazine	Serentil	2	A	Methoxyphenamine	Orthoxide		3	A
Mestanolone		3	B	Methscopolamine	Pamine		4	B
Mesterolone		3	B	Methsuximide	Celontin		3	A
Metaclozapem	Talis	2	A	Methylatropine			3	B
Metaproterenol	Alupent, Metaprel	3	B	Methylchlorthiazide	Enduron		4	B
Metaraminol	Aramine	1	A	Methyldienolone			3	B
Metaxalone	Skelaxin	4	B	Methyldopa	Aldomet		3	A
Metazocine		2	A	Methylergonovine	Methergine		4	C
Metenolone		3	B	Methylnortestosterone			3	B
				Methylphenidate	Ritalin		1	A

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Drug/Substance **Trade Name(s)** **Class** **Penalty** **Drug/Substance** **Trade Name(s)** **Class** **Penalty**

Methylprednisolone	Medrol	4	C	Mosaprimine			2	A
Methyltestosterone	Metandren	3	A	Muscarine			3	A
Methyl-1-testosterone		3	A	Nabumetone	Anthraxan, Relafen, Reliflex		3	A
Methyprylon	Noludar	2	A	Nadol	Corgard		3	B
Methysergide	Sansert	4	B	Naepaine	Amylisine		4	C
Metamide		4	B	Nalbuphine	Nubain		2	A
Metoclopramide	Reglan	4	C	Nalorphine	Nalline, Lethidrone		2	A
Metocurine	Metubine	2	A	Naloxone	Narcan		3	A
Metolazone		3	B	Naltrexone	Revia		3	A
Metomidate	Hypnodil	2	A	Nandrolone	Nandrolin, Laurabolin, Durabolin		3	B
Metopon (methyldihydromorphinone)		1	A	Naphazoline	Privine		4	B
Metoprolol	Lopressor	3	B	Naproxen	Equiproxen, Naprosyn		4	C
Mexazolam	Melex	2	A	Naratriptan	Amerge		3	B
Mexilitine	Mexilli	4	B	Nebivolol			3	A
Mibefradil	Posicor	3	B	Nedocromil	Tilade		5	C
Mibolerone		3	B	Nefazodone	Serzone		2	A
Midazolam	Versed	2	A	Nefopam			3	A
Midodrine	Pro-Amiline	3	B	Neostigmine	Prostigmine		3	B
Milrinone		4	B	Nicardipine	Cardine		4	B
Minoxidil	Loniten	3	B	Nifedipine	Procardia		4	B
Mirtazepine	Remeron	2	A	Niflumic acid	Nifluril		3	B
Misoprostel	Cytotec	5	C	Nikethamide	Coramine		1	A
Mivacurium	Mivacron	2	A	Nimesulide			3	B
Modafinil	Provigil	2	A	Nimetazepam	Erimin		2	A
Moexipril (metabolite, moexiprilat)	Uniretic	3	B	Nimodipine	Nemotop		4	B
Molindone	Moban	2	A	Nitrazepam	Mogadon		2	A
Mometasone	Elocon	4	C	Nitroglycerin			3	B
Montelukast	Singulair	4	C	Nizatidine	Axid		5	C
Moperone	Luvatren	2	A	19-Norandrostenediol			3	B
Morphine		1	B					

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Drug/Substance	Trade Name(s)	Class	Penalty	Drug/Substance	Trade Name(s)	Class	Penalty
19-Norandrosteredione		3	B	Pancuronium	Pavulon		2 A
Norbolethone		3	B	Pantoprazole	Protonix		5 D
Norclosterbol		3	B	Papaverine	Pavagen, etc.		3 A
Nordiazepam	Calmday, Nordaz, etc.	2	A	Paraldehyde	Paral		2 A
Norepinephrine		2	A	Paramethadione	Paradione		3 A
Norethandrolone		3	A	Paramethasone	Haldrone		4 C
Nortestosterone		4	C	Pargyline	Eutonyl		3 A
Nortriptyline	Aventyl, Pamelor	2	A	Paroxetine	Paxil, Seroxat		2 A
Nylidrine	Arlidin	3	A	Pemoline	Cylert		1 A
Olanzapine	Zyprexa	2	A	Penbutolol	Levato		3 B
Oimesartan	Benicar	3	A	Penfluridol	Cyperon		2 A
Olsalazine	Dipentum	4	B	Pentaerythritol tetranitrate	Duotrate		3 A
Omeprazole	Prilosec, Losec	5	D	Pentazocine	Talwin		3 B
Orphenadrine	Norifex	4	B	Pentobarbital	Nembutal		2 A
Oxabolone		3	B	Pentoxyfylline	Trental, Vazofirin		4 C
Oxandrolone	Anavar	3	B	Pentylene tetrazol	Metrazol, Nioric		1 A
Oxaprozin	Daypro, Deflam	4	C	Perazine	Taxilan		2 A
Oxazepam	Serax	2	A	Perfluorodecolin			2 A
Oxazolam	Serenal	2	A	Perfluorodecahydronophthalene			2 A
Oxcarbazepine	Trileptal	3	A	Perfluoroocetyl bromide			2 A
Oxlofrine (hydroxyephedrine)		2	A	Perfluorotripropylamine			2 A
Oxprenolol	Trasacor	3	B	Perfluorocarbons			2 A
Oxycodone	Percodan	1	A	Periciazine	Alodept, etc.		2 A
Oxymesterone		3	B	Perindopril	Biprel		3 A
Oxymetazoline	Afrin	4	B	Perlapipe	Hypnodin		2 A
Oxymetholone	Adroyd, Anadrol	3	B	Perphenazine	Trilafon		2 A
Oxymorphone	Numorphan	1	A	Phenacemide	Phenurone		4 B
Oxyperitine	Forit, Integrin	2	A	Phenaglycodol	Acalo, Alcamid, etc.		2 A
Oxyphenbutazone	Tandearil	4	C	Phenazocine	Narphen		1 A
Oxyphencyclimine	Daricon	4	B	Phencyclidine (PCP)	Sernylan		1 A
Oxyphenonium	Antrenyl	4	B	Phendimetrazine	Bontril, etc.		1 A
Paliperidone		2	A	Phenelzine	Nardelzine, Nardil		2 A

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Drug/Substance Trade Name(s) Class Penalty Drug/Substance Trade Name(s) Class Penalty

Drug/Substance	Trade Name(s)	Class	Penalty	Drug/Substance	Trade Name(s)	Class	Penalty
Phenindione	Hedulin	5	C	Polyethylene glycol			
Phenmetrazine	Preludin	1	A	Polythiazide	Renese	4	B
Phenobarbital	Luminal	2	A	Pramoxine	Tronothaine	4	C
Phenoxybenzamine	Dibenzyline	3	B	Prazepam	Verstran, Centrax	2	A
Phenprocoumon	Liquamar	5	C	Prazosin	Minipress	3	B
Phensuximide	Milontin	4	B	Prednisolone	Delta-Cortef, etc.	4	C
Phentermine	Iomamin	2	A	Prednisone	Meticorten, etc.	4	C
Phentolamine	Regitine	3	B	Pilocaine	Citanest	2	C
Phenylbutazone	Butazolidin	4	C*	Primidone	Myosoline	3	B
Phenylephrine	Isophrin, Neo-Synephrine	3	B	Probenecid		4	C
Phenylpropanolamine	Propadrine	3	B	Procainamide	Pronestyl	4	B
Phenylethanolamine	Propadrine	3	B	Procaine		3	B
Phenylethylamine	Dilantin	4	B	Procatrol	Pro Air	3	A
Phenylethylamine	Eserine	3	B	Prochlorperazine	Darbazine, Compazine	2	A
Picrotoxin		1	A	Procyclidine	Kemadrin	3	B
Pimindone	Alvodine, Cimadon	2	A	Promazine	Sparine	3	B
Pimozide	Orap	2	A	Promethazine	Phenergan	3	B
Pinazepam	Domar	2	A	Propafenone	Rythmol	4	B
Pindolol	Viskin	3	A	Propranidol		2	A
Pipamperone	Dipiperon	2	A	Proprantheine	Pro-Banthine	3	A
Pipecuronium	Arduan	2	A	Proparacaine	Ophthaine	4	C
Pipequaline		2	A	Propentophylline	Karsivan	3	B
Piperacetazine	Psymod, Quide	2	A	Propiomazine	Largon	2	A
Piperocaine	Metycaine	2	A	Propionylpromazine	Tranvet	2	A
Pipotiazine	Lonseren, Piportil	2	A	Propiram		2	A
Pipradrol	Dataril, Gerondyl, etc.	2	A	Propofol	Diprivan, Disoprivan	2	A
Piquindone		2	A	Propoxycaïne	Ravocaine	2	A
Pirbuterol	Maxair	3	A	Propranolol	Inderal	3	B
Pirenzapine	Gastrozepin	5	C	Propylhexedrine	Benzedrex	4	B
Piretanide	Arelix, Tauliz	3	B	Prostanazol		3	B
Piritramide		1	A	Prothipendyl	Dominal	2	A
Piroxicam	Feldene	3	B	Protokylol	Ventaire	3	A

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Drug/Substance	Trade Name(s)	Class	Penalty	Drug/Substance	Trade Name(s)	Class	Penalty
Protriptyline	Concordin, Triptil	2	A	Salicylamide			4 C
Proxibarbitol	Axeen, Centralgol	2	A	Salicylate			4 C
Pseudoephedrine	Cenafed, Novafed	3	B	Salmeterol			3 B
Pyridostigmine	Mestison, Regonol	3	B	Scopolamine (Hyoscine)	Triptone		3 B
Pyrilamine	Neointergan, Equihist	3	B	Secobarbital (Quinalbarbitone)	Seconal		2 A
Pyrithidione	Hybersulfan, Sonodor	2	A	Selegiline	Eldepryl, Jumex, etc.		2 A
Quazipam	Doral	2	A	Sertraline	Lustral, Zoloft		2 A
Quetiapine	Seroquel	2	A	Sibutramine	Meridia		3 B
Quinbolone		3	B	Sildenafil	Viagra		3 A
Quinapril, metabolite Quinaprilat	Accupril	3	A	Snake Venoms			2 A
Quinidine	Quinidex, Quinocardine	4	B	Somatropin	Nutropin		2 A
Rabeprazole	Aciphex	5	D	Somatrem	Protropin		2 A
Racemethorphan		2	A	Sotalol	Betapace, Sotacor		3 B
Racemorphan		2	A	Spiciomazine			2 A
Raclopride		2	A	Spiperone			2 A
Ractopamine	Raylean	3	A	Spirapril, metabolite Spiraprilat	Renomax		3 A
Ramipril, metabolite Ramiprilat	Altace	3	A	Spironolactone	Aldactone		4 B
Ranitidine	Zantac	5	D	Stanozolol	Winstrol-V		3 B
Remifentanyl	Ultiva	1	A	Stenbolone			3 B
Remoxipride	Roxiam	2	A	Strychnine			1 B
Reserpine	Serpasil	2	A	Succinylcholine	Sucostrin, Quelin, etc.		2 A
Rilimazafone		2	A	Sufentanil	Sufenta		1 A
Risperidone		2	A	Sulfasalazine	Azulfidine, Azaline		4 C
Ritanserlin		2	A	Sulfondiethylmethane			2 A
Ritodrine	Yutopar	3	B	Sulfonmethane			2 A
Rivastigmine	Exelon	3	B	Sulfuridazine	Inofal		2 A
RizatRIPTAN	Maxalt	3	B	Sulindac	Clinoril		3 A
Rocuronium	Zemuron	2	A	Sulpiride	Aiglonyl, Sulpitil		2 A
Rofecoxib	Vioxx	2	A	Sultopride	Barnetil		2 A
Romifidine	Sedivet	2	B	Sumatriptan	Imitrex		3 B
Ropivacaine	Naropin	2	A	Synthetic cannabis	Spice, K2, Kronic		1 A
				Tadalafil	Cialis		3 A

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Drug/Substance Trade Name(s) Class Penalty Drug/Substance Trade Name(s) Class Penalty

Drug/Substance	Trade Name(s)	Class	Penalty	Drug/Substance	Trade Name(s)	Class	Penalty
Talbutal	Lotusate	2	A	Timiperone	Tolopelon	2	A
Tandospirone		2	A	Timolol	Blocardrin	3	B
Telmisartin	Micardis	3	B	Tocainide	Tonocard	4	B
Temazepam	Restoril	2	A	Tofisopam	Grandaxain, Seriel	2	A
Tenoxicam	Alganex, etc.	3	B	Tolazoline	Priscoline	3	B
Tepoxalin		3	B	Tolmetin	Tolectin	3	B
Terazosin	Hytrin	3	A	Topirimate	Topamax	2	A
Terbutaline	Brethine, Bricanyl	3	B	Torseamide (Torasemide)	Demadex	3	A
Terfenadine	Seldane, Triludan	4	B	Tramadol	Ultram	2	A
Testolactone	Teslac	3	B	Trandolapril (and metabolite, trandolaprilat)	Tarka	3	B
Testosterone		3	B	Tranexamic acid		4	C
Tetrabenazine	Nitoman	2	A	Tranylcypromine	Parnate	2	A
Tetracaine	Pontocaine	2	A	Trazodone	Desyrel	2	A
Tetrahydrogestrinone		3	A	Trenbolone	Finoplix	3	B
Tetrahydrozoline	Tyzine	4	B	Tretoquinol	Inolin	2	A
Tetrazepam	Musaril, Myolastin	2	A	Triamcinolone	Vetalog, etc.	4	C
Thebaine		2	A	Triamterene	Dyrenium	4	B
Theobromine		4	B	Triazolam	Halcion	2	A
Theophylline	Aqualphyllin, etc.	3	B	Tribromethanol		2	A
Thialbarbital	Kemithal	2	A	Tricaine methanesulfonate	Finquel	2	A
Thiamylal	Surital	2	A	Trichlormethiazide	Naqua, Naquasone	4	C
Thiethylperazine	Torecan	2	A	Trichloroethanol		2	A
Thiopental	Pentothal	2	A	Trichloroethylene	Triene, Trimar	2	A
Thiopropazate	Dartal	2	A	Triclofos	Triclos	2	A
Thiopropazine	Majeptil	2	A	Tridihexethyl	Pathilon	4	B
Thioridazine	Mellaril	2	A	Trifluomeprazine	Nortran	2	A
Thiosalicylate		4	C	Trifluoperazine	Stelazine	2	A
Thiothixene	Navane	2	A	Trifluoperidol	Triperidol	2	A
Thiphenamil	Trocinate	4	B	Triflupromazine	Vetame, Vesprin	2	A
Tiaprside	Italprid, Luxoben, etc.	2	A	Trihexylphenidyl	Artane	3	A
Tiaprofenic acid	Surgam	3	B	Trimeprazine	Temaril	4	B
Tiletamine	Component of Telazol	2	A				

Alphabetical List

Drug/Substance	Trade Name(s)	Class	Penalty	Drug/Substance	Trade Name(s)	Class	Penalty
Trimethadione	Tridione	3	B	Zolazepam			2
Trimethaphan	Arfonad	3	A	Zolmitriptan	Zomig		3
Trimipramine	Surmontil	2	A	Zolpidem	Ambien, Stilnox		2
Tripelennamine	PBZ	3	B	Zomepirac	Zomax		2
Tripolidine	Actidil	4	B	Zonisamide	Zonegran		3
Tubocurarine (Curare)	Metubin	2	A	Zopiclone	Imovan		2
Tybamate	Benvil, Nospan, etc.	2	A	Zotepine	Lodopin		2
Urethane		2	A	Zuclopenthixol	Ciatyl, Cesordinol		2
Valdecoxib		2	A	Δ-1-androstene-3, 17-diol			3
Valerenic acid		3	A	Δ-1-androstene-3, 17-dione			3
Valnoctamide	Nirvanyl	2	A	Δ-1-dihydrotestosterone			3
Valsartan	Diovan	3	B				
Vardenafil	Levitra	3	A				
Vedaprofen		4	B				
Venlafaxine	Effexor	2	A				
Verapride	Accional, Veralipril	2	A				
Verapamil	Calan, Isoptin	4	B				
Vercuronium	Norcuron	2	A				
Viloxazine	Catatrol, Vivalan, etc.	2	A				
Vinbarbital	Delvinol	2	A				
Vinylbital	Optanox, Speda	2	A				
Warfarin	Coumadin, Coufarin	5	C				
Xylazine	Rompun, Bay Va 1470	3	B				
Xylometazoline	Otrivin	4	B				
Yohimbine		2	A				
Zafirlukast	Accolate	4	C				
Zaleplon	Sonata	2	A				
Zeranol	Ralgro	4	C				
Ziconotide		1	A				
Zileuton	Zyflo	4	C				
Zipaterol hydrochloride	Zipaterol	3	A				
Ziprasidone	Geodon	2	A				

Listing By Classification

Class 1: Stimulant and depressant drugs that have the highest potential to affect performance and that have no generally accepted medical use in the racing horse. Many of these agents are Drug Enforcement Agency (DEA) Schedule II substances. These include the following drugs and their metabolites: Opiates, opium derivatives, synthetic opioids, psychoactive drugs, all DEA Schedule 1* substances (see <http://www.usdoj.gov/dea/pubs/scheduling.html>), amphetamines and amphetamine-like drugs as well as related drugs, including but not limited to apomorphine, nikethamide, mazindol, pemoline, and pentylentetrazol.

Drug	Trade Name(s)	Class	Penalty	Drug	Trade Name(s)	Class	Penalty
3,4-methylenedioxypyrovalerone	MDPV, "Bath Salts"	1	A	(dihydrocodienone)			
Alfentanil	Alfenta	1	A	Hydromorphone	Dilaudid	1	A
Amphetamine		1	A	Hydroxyamphetamine	Paradrine	1	A
Anileridine	Leritine	1	A	Levorphanol	Levo-Dremoran	1	A
Apomorphine		1	A	Lofentanil		1	A
Benzylpiperazine (BZP)		1	A	Mazindol	Sanorex	1	A
Carfentanil		1	A	Meperidine	Demerol	1	A
Cathinone		1	A	Mephentermine	Wyamine	1	A
a-Cobratoxin		1	A	Metaraminol	Aramine	1	A
Cocaine		1	B	Methadone	Dolophine	1	A
Codeine		1	A	Methamphetamine	Desoxyn	1	A
DEA Schedule 1 (all)*		1	A	Methaqualone	Quaalude	1	A
Dermorphin		1	A	Methcathinone		1	A
Dextromoramide	Palfium, Narcolo	1	A	Methylphenidate	Ritalin	1	A
Diamorphine		1	A	Metopon (methyldihydromorphinone)		1	A
Donepezil	Aricept	1	A	Morphine		1	B
Endorphins		1	A	Nikethamide	Coramine	1	A
Enkephalins		1	A	Oxycodone	Percodan	1	A
Ethylmorphine	Dionin	1	A	Oxymorphone	Numorphan	1	A
Etorphine HCl	M99	1	A	Pemoline	Cylert	1	A
Fentanyl	Sublimaze	1	A	Pentylentetrazol	Metrazol, Nioric	1	A
Heroin		1	A	Phenazocine	Narphen	1	A
Hydrocodone	Hydocane	1	A	Phencyclidine (PCP)	Sernylan	1	A
				Phendimetrazine	Bontril, etc.	1	A

Listing By Classification

Class 1: Stimulant and depressant drugs that have the highest potential to affect performance and that have no generally accepted medical use in the racing horse. Many of these agents are Drug Enforcement Agency (DEA) Schedule II substances. These include the following drugs and their metabolites: Opiates, opium derivatives, synthetic opioids, psychoactive drugs, all DEA Schedule I* substances (see <http://www.usdoj.gov/dea/pubs/scheduling.html>), amphetamines and amphetamine-like drugs as well as related drugs, including but not limited to apomorphine, nikethamide, mazindol, pemoline, and pentylenetetrazol.

Drug	Trade Name(s)	Class	Penalty	Drug	TradeName(s)	Class	Penalty
Phenmetrazine	Preludin	1	A				
Picotoxin		1	A				
Piritramide		1	A				
Remifentanil	Ultiva	1	A				
Strychnine		1	B				
Sufentanil	Sufenta	1	A				
Synthetic cannabis	Spice, K2, Kronik	1	A				
Ziconotide		1	A				

Listing by Classification

Class 2: Drugs that have a high potential to affect performance, but less of a potential than Class 1. These drugs are 1) not generally accepted as therapeutic agents in racing horses, or 2) they are therapeutic agents that have a high potential for abuse.

Drug	Trade Name(s)	Class	Penalty	Class	Drug	Trade Name(s)	Class	Penalty
Accecarbromal		2	A		Benzactizine	Deprol, Bronchodilietten	2	A
Acetophenazine	Tindal	2	A		Benzocetamine		2	A
Adinazolam		2	A		Benzodiazepines		2	A
Alclofenac		2			Benzphetamine	Didrex	2	A
Alcuronium	Alloferin	2	A		Benztropine	Cogentin	2	A
Alphaprodine	Nisentil	2	A		Biriperone		2	A
Alpidem	Anaxyl	2	A		Brimonidine		2	A
Alprazolam	Xanax	2	A		Bromazepam	Lexotan, Lectopam	2	A
Althesin	Saffan	2	A		Bromisovalum	Diffucord, etc.	2	A
Amisulpride	Solian	2	A		Bromocriptine	Parlofel	2	A
Amitriptyline	Elavil, Amitril, Endep	2	A		Bromperidol	Bromidol	2	A
Amobarbital	Amytal	2	A		Brotizolam	Brotocol	2	A
Amoxapine	Asendin	2	A		Bupivacaine	Marcaine	2	A
Amperozide		2	A		Buprenorphine	Temgesic	2	A
Anilopam	Anisine	2	A		Buspirone	Buspar	2	A
Aprobarbital	Alurate	2	A		Buspropion	Wellbutrin	2	A
Articaine	Septocaine; Ultracaine, etc.	2	A		Butabarbital	Butacaps, Butasol, etc.	2	A
Atomoxetine	Strattera	2	A		Butalbital (Talbutal)	Fiorinal	2	A
Atracurium	Tracrium	2	A		Butanilicaine	Hostacain	2	A
Azacylonol	Frenque	2	A		Butaperazine	Repoise	2	A
Azaperone	Stresnil, Suicalm, Fentaz	2	A		Butoctamide	Listomin	2	A
Barbital	Veronal	2	A		Caffeine		2	B
Barbiturates		2	A		Camazepam	Paxor	2	A
Bemegride	Megimide, Mikedimide	2	A		Captodiamine	Covatine	2	A
Benoxaprofen		2	A		Carbidopa + levodopa	Sinemet	2	A
Benperidol	Anquil	2	A		Carbromol	Mifudorm	2	A
Bentazepam	Tiadipona	2	A		Carisoprodol	Soma, Rela	2	B

Listing by Classification

Class 2: Drugs that have a high potential to affect performance, but less of a potential than Class 1. These drugs are 1) not generally accepted as therapeutic agents in racing horses, or 2) they are therapeutic agents that have a high potential for abuse.

Drug	Trade Name(s)	Class	Penalty	Class	Drug	Trade Name(s)	Class	Penalty
Carphenazine	Proketazine	2	A		Corticaïne	Ultracain	2	A
Carpipramine	Prazinil	2	A		Crotetamide		2	A
Carticaine (see articaine)	Septocaine; Ultracaine, etc.	2	A		Cyamemazine	Tercian	2	A
Chloralose (Alpha-Chloralose)		2	A		Cyclobarbitol	Phanodorm	2	A
Chloral betaine	Beta-Chlor	2	A		Darbepoetin	Aranesp	2	A
Chloral hydrate	Nactec, Oridrate, etc.	2	A		Decamethonium	Syncurine	2	A
Chloraldehyde (chloral)		2	A		Demoxepam		2	A
Chlordiazepoxide	Librium	2	A		Desipramine	Norpromine, Perofrane	2	A
Chlormezanone	Trancopal	2	A		Dezocine	Dalgan®	2	A
Chloroform		2	A		Diazepam	Valium	2	B
Chlorhexidol		2	A		Dichloralphenazone	Febenol, Isocom	2	A
Chlorprocaine	Nesacaine	2	A		Diethylpropion	Tepanil, etc.	2	A
Chlorproethazine	Newipleg	2	A		Diethylthiambutene	Themalon	2	A
Chlorpromazine	Thorazine, Largactil	2	A		Dihydrocodeine	Parcodin	2	A
Chlorprothixene	Taractan	2	A		Dilorzepam	Briantum	2	A
Citalopram	Celex	2	A		Diprenorphine	M50/50	2	A
Clobazam	Urbanyl	2	A		Dixyrazine	Esucos	2	A
Clocapramine		2	A		Dopamine	Intropin	2	A
Clomethiazole		2	A		Doxacurium	Nuromax	2	A
Clomipramine	Anafranil	2	A		Doxapram	Dopram	2	A
Clonazepam	Klonopin	2	A		Doxefazepam	Doxans	2	A
Clorazepate	Tranxene	2	A		Doxepin	Adapin, Sinequan	2	A
Clothiapine	Entermim	2	A		Droperidol	Inapsine, Droleptan,	2	A
Clotiazepam	Trecalmo, Rize	2	A		Duloxetine		2	A
Cloxacolam	Enadel, Sepazon, Tolestan	2	A		Enciprazine		2	A
Clozapine	Clozaril, Leponex	2	A		Ephedrine		2	A
Conorphone		2	A		Epibatidine		2	A

Listing by Classification

Class 2: Drugs that have a high potential to affect performance, but less of a potential than Class 1. These drugs are 1) not generally accepted as therapeutic agents in racing horses, or 2) they are therapeutic agents that have a high potential for abuse.

Drug	Trade Name(s)	Class	Penalty	Class	Drug	Trade Name(s)	Class	Penalty	Class
Epinephrine		2	A		Flupromazine				2
Ergolid Mesylates (dihydroergocornine Mesylate, dihydroergocristine mesylate and dihydroergocryptine mesylate)					Fluoresone	Psyquil, Siquil			2
Erythropoietin (EPO)		2	A		Fluoxetine	Caducid			2
Estazolam					Flupentixol	Prozac			2
Ethamivan		2	A		Fluphenazine	Depixol, Fluaxol			2
Ethanol					Flurazepam	Prolixin, Permittil, Anatenzol,			2
Ethchlorvynol					Fluspirilene	Dalmane			2
Ethinamate		2	A		Flutoprazepam	Imap, Redeptin			2
Ethopropazine		2	A		Fluvoxamine	Restas			2
Ethylisobutrazine					Galantamine	Dumirox, Faverin, etc.			2
Etidocaine		2	A		Gallamine	Reminyl			2
Etifoxin		2	A		Gepirone	Flaxedil			2
Etizolam		2	A		Glutethimide				2
Etodroxizine		2	A		Halazepam	Doriden			2
Etomidate		2	A		Haloperidol	Paxipam			2
Fenarbamate		2	A		Haloxazolam	Haldol			2
Fenclozic Acid		2	A		Hemoglobin glutamers	Somelin			2
Fenfluramine		2	A		Hexafluorenum	Oxyglobin, Hemopure			2
Fluanisone		2	A		Hexobarbital	Myalexen			2
Fludiazepam		2	A		Homophenazine	Evipal			2
Flunitrazepam		2	A		Hydroxyzine	Pelvichthol			2
					Ibomal	Atarax			2
					Imipramine	Noctal			2
					Isapirone	Imavate, Presamine,			2
					Isocarboxazid				2
					Isomethadone	Marplan			2
					Isoproterenol				2
						Isoprel			2

Listing by Classification

Class 2: Drugs that have a high potential to affect performance, but less of a potential than Class 1. These drugs are 1) not generally accepted as therapeutic agents in racing horses, or 2) they are therapeutic agents that have a high potential for abuse.

Drug	Trade Name(s)	Class	Penalty	Class	Penalty	Drug	Trade Name(s)	Class	Penalty
Isoxicam	Maxicam	2	A			Mepivacaine	Carbocaine		2 B
Ketamine	Ketalar, Ketaset, Vetalar	2	B			Meprobamate	Equanil, Miltown		2 A
Ketazolam	Anxon, Laftram, Solafran, Loftran	2	A			Mesoridazine	Serentil		2 A
Lenperone	Elanone-V	2	A			Metaclozepam	Talis		2 A
Levamisole		2	B			Metazocine			2 A
Levomethorphan		2	A			Metharbital	Gemonil		2 A
Lidocaine	Xylocaine	2	B			Methohexital	Brevital		2 A
Lithium	Lithizine, Duralith, etc.	2	A			Methotrimeprazine	Levoprome, Neurocil, etc.		2 A
Lobeline		2	A			Methyprylon	Noludar		2 A
Loflazepate, Ethyl	Victan	2	A			Metocurine	Metubine		2 A
Loperamide	Imodium	2	A			Metomidate	Hypnodil		2 A
Loprazolam	Dormonot, Havlane	2	A			Mexazolam	Melex		2 A
Lorazepam	Ativan	2	A			Midazolam	Versed		2 A
Lormetazepam	Noctamid	2	A			Mirtazepine	Remeron		2 A
Loxapine	Laxitane	2	A			Mivacurium	Mivacron		2 A
Maprotiline	Ludiomil	2	A			Modafinil	Provigil		2 A
Mebutamate	Axiten, Dormate, Capla	2	A			Molindone	Moban		2 A
Meclofenoxate	Lucidril, etc.	2	A			Moperone	Luvatren		2 A
Medazepam	Nobrium, etc.	2	A			Mosaprimine			2 A
Melperone	Eunerpan	2	A			Nalbuphine	Nubain		2 A
Memantine	Namenda	2	A			Nalorphine	Nalline, Lethidrone		2 A
Meparfynol	Oblivon	2	A			Nefazodone	Serzone		2 A
Mepazine	Pacatal	2	A			Nimetazepam	Erimin		2 A
Mephexalone	Control, etc.	2	A			Nitrazepam	Mogadon		2 A
Mephénytoin	Mesantoin	2	A			Nordiazepam	Calmday, Nordaz, etc.		2 A
Mephobarbital	Mebaral	2	A			Norepinephrine			2 A
						Nortriptyline	Aventyl, Pamelor		2 A

Listing by Classification

Class 2: Drugs that have a high potential to affect performance, but less of a potential than Class 1. These drugs are 1) not generally accepted as therapeutic agents in racing horses, or 2) they are therapeutic agents that have a high potential for abuse.

Drug	Trade Name(s)	Class	Penalty	Class	Drug	Trade Name(s)	Class	Penalty
Clanzepine	Zyprexa	2	A	Pipamperone	Dipiperon	2	A	
Oxazepam	Serax	2	A	Pipecuronium	Arduan	2	A	
Oxazolam	Serenal	2	A	Pipequaline		2	A	
Oxlofine (hydroxyephedrine)		2	A	Piperacetazine	Psymod, Quide	2	A	
Oxyperitine	Forit, Integrin	2	A	Piperocaine	Metycaine	2	A	
Paliperidone		2	A	Pipotiazine	Lonseren, Piportil	2	A	
Pancuronium	Pavulon	2	A	Pipradrol	Dataril, Gerondyl, etc.	2	A	
Paraldehyde	Paral	2	A	Piquindone		2	A	
Paroxetine	Paxil, Seroxat	2	A	Prazepam	Verstran, Centrax	2	A	
Pentfluridol	Cyperon	2	A	Prilocaine	Citanest	2	A	
Pentobarbital	Nembutal	2	A	Prochlorperazine	Darbazine, Compazine	2	A	
Perazine	Taxilan	2	A	Propanidid		2	A	
Perfluorodecolin		2	A	Propiomazine	Largon	2	A	
Perfluorodecahydronophthalen		2	A	Propionylpromazine	Tranvet	2	A	
Perfluorooctylbromide		2	A	Propiram		2	A	
Perfluorotripropylamine		2	A	Propofol	Diprivan, Disoprivan	2	A	
Perfluorocarbons		2	A	Propoxycaine	Ravocaine	2	A	
Periciazine	Alodept, etc.	2	A	Prothipendyl	Dominal	2	A	
Perlazine	Hypnodin	2	A	Protriptyline	Concordin, Triptil	2	A	
Perphenazine	Trilafon	2	A	Proxibarbital	Axeen, Centralgol	2	A	
Phenaglycodol	Acalo, Alcamid, etc.	2	A	Pyrithyldione	Hybersulfan, Sonodor	2	A	
Phenelzine	Nardelzine, Nardil	2	A	Quazipam	Doral	2	A	
Phenobarbital	Luminal	2	A	Quetiapine	Seroquel	2	A	
Phentermine	Iomamin	2	A	Racemethorphan		2	A	
Piminodine	Alvodine, Cimadon	2	A	Racemorphan		2	A	
Pimozide	Orap	2	A	Raclopride		2	A	
Pinazepam	Domar	2	A	Remoxipride	Roxiam	2	A	

Listing by Classification

Class 2: Drugs that have a high potential to affect performance, but less of a potential than Class 1. These drugs are 1) not generally accepted as therapeutic agents in racing horses, or 2) they are therapeutic agents that have a high potential for abuse.

Drug	Trade Name(s)	Class	Penalty	Class	Penalty	Drug	Trade Name(s)	Class	Penalty
Reserpine	Serpasil	2	A	Tetracaine	2	A	Pontocaine	2	A
Rilmazafone		2	A	Tetrazepam	2	A	Musaril, Myolastin	2	A
Risperidone		2	A	Thebaine	2	A		2	A
Ritanserlin		2	A	Thialbarbital	2	A	Kemithal	2	A
Rivastigmine	Exelon	2	A	Thiamylal	2	A	Surital	2	A
Rocuronium	Zemuron	2	A	Thiethylperazine	2	A	Torecan	2	A
Rofecoxib	Vioxx	2	A	Thiopental	2	A	Pentothal	2	A
Romifidine	Sedivet	2	A	Thiopropazate	2	A	Dartal	2	A
Ropivacaine	Naropin	2	B	Thiopropazine	2	A	Majeptil	2	A
Secobarbital (Quinalbarbitone)	Seconal	2	A	Thioridazine	2	A	Mellaril	2	A
Selegiline	Eldepryl, Jumex	2	A	Thiothixene	2	A	Navane	2	A
Sertaline	Lustral, Zoloft	2	A	Tiapride	2	A	Italprid, Luxoben, etc.	2	A
Snake Venoms		2	A	Tiletamine	2	A	Component of Telazol	2	A
Somatrem	Protropin	2	A	Timiperone	2	A	Tolopelon	2	A
Somatropin	Nutropin	2	A	Tofisopam	2	A	Grandaxain, Seriel	2	A
Spiclomazine		2	A	Topirimate	2	A	Topamax	2	A
Spiperone		2	A	Tramadol	2	A	Ultram	2	A
Succinylcholine	Sucostrin, Quelin, etc.	2	A	Tranylcypromine	2	A	Parnate	2	A
Sulfondiethylmethane		2	A	Trazodone	2	A	Desyrel	2	A
Sulfonmethane		2	A	Tretoquinol	2	A	Inolin	2	A
Sulfordazine	Inofal	2	A	Triazolam	2	A	Halcion	2	A
Sulpiride	Aiglonyl, Sulpitil	2	A	Tribromethanol	2	A		2	A
Sultopride	Barnetil	2	A	Tricaine methanesulfonate	2	A	Finquel	2	A
Talbutal	Lotusate	2	A	Trichloroethanol	2	A		2	A
Tandospirone		2	A	Trichloethylene	2	A	Trilene, Trimar	2	A
Temazepam	Restoril	2	A	Triclofos	2	A	Triclos	2	A
Tetrabenazine	Nitoman	2	A	Trifluomeprazine	2	A	Nortran	2	A

Listing by Classification

Class 2: Drugs that have a high potential to affect performance, but less of a potential than Class 1. These drugs are 1) not generally accepted as therapeutic agents in racing horses, or 2) they are therapeutic agents that have a high potential for abuse.

Drug	Trade Name(s)	Class	Penalty Class	Drug	Trade Name(s)	Class	Penalty Class
Trifluoperazine	Stelazine	2	A				
Trifluoperidol	Triperidol	2	A				
Triflupromazine	Vetame, Vesprin	2	A				
Trimipramine	Surmontil	2	A				
Tubocurarine (Curare)	Metubin	2	A				
Tybamate	Benvil, Nospan, etc.	2	A				
Urethane		2	A				
Valdecoxib		2	A				
Valnoctamide	Nirvanyl	2	A				
Venlafaxine	Efflexor	2	A				
Veraprilide	Accional, Verapril	2	A				
Vercuronium	Norcuron	2	A				
Viloxazine	Catatrol, Vivalan, etc.	2	A				
Vinbarbital	Delvinol	2	A				
Vinylbital	Optanox, Speda	2	A				
Yohimbine		2	A				
Zaleplon	Sonata	2	A				
Ziprasidone	Geodon	2	A				
Zolazepam		2	A				
Zolpidem	Ambien, Stilnox	2	A				
Zomepirac	Zomax	2	A				
Zopiclone	Imovan	2	A				
Zotepine	Lodopin	2	A				
Zuclopenthixol	Ciatyl, Cesordinol	2	A				

Listing by Classification

Class 3: Drugs that may or may not have generally accepted medical use in the racing horse, but the pharmacology of which suggests less potential to affect performance than drugs in Class 2.

Drug	Trade Name(s)	Class	Penalty Class	Drug	Trade Name(s)	Class	Penalty Class
Acebutolol	Sectral	3	B	Brimonidine	Alphagan	3	B
Acepromazine	Atrovet, Notensil, PromAce®	3	B	Bromfenac	Duract	3	A
Albuterol (Salbutamol)	Proventil, Ventolin	3	B	Bromodiphenhydramine		3	B
Almotriptan	Axert	3	A	Bufexamac		3	A
Alprenolol		3	A	Bumetanide	Bumex	3	B
Ambenonium	Mytelase, Myeuran	3	B	Butorphanol	Stadol, Torbugesic	3	B
Aminophylline	Aminophyllin, etc.	3	B	N-Butylscopolamine		3	B
Amitraz	Mitaban	3	A	Calusterone		3	B
Amlodipine	Norvasc	3	A	Candesartan	Atacand	3	B
Amyl nitrite		3	A	Captopril	Capoten	3	B
Arecoline		3	A	Carazolol	Carbacel, Conducton	3	A
Arformoterol		3	A	Carbachol	Lentin, Doryl	3	B
Atenolol	Tenormin	3	B	Carbamezapine	Tegretol	3	B
Atropine		3	B	Carbinoxamine	Clistin	3	B
Benazeprilat, Benazepril and MC-Tab	Lotensin	3	A	Carteolol	Cartrol	3	B
Betaxolol	Kerlone	3	B	Carvedilol	Coreg	3	B
Bethanidine	Esbatal	3	A	Celecoxib	Celebrex	3	B
Biperiden	Akineton	3	A	Cimetrol		3	A
Bisoprolol	Zebeta, Bisobloc, etc.	3	B	Clemastine	Tavist	3	B
Bitolterol	Effectin	3	A	Clenbuterol	Ventipulmin	3	B
Bolasterone		3	A	Clidinium	Quarezan, Clindex, etc.	3	B
Boldenone	Equipoise	3	B	Clonidine	Catapres	3	B
Boldione		3	A	Clostebol		3	B
Bretylum	Bretylol	3	B	Cyclandelate	Cyclospasmol	3	A

Listing by Classification

Class 3: Drugs that may or may not have generally accepted medical use in the racing horse, but the pharmacology of which suggests less potential to affect performance than drugs in Class 2.

Drug	Trade Name(s)	Class	Penalty Class	Drug	Trade Name(s)	Class	Penalty Class
Cyrimine	Pagitane	3	B	Esmolol	Brevibloc	3	B
Danazol	Danocrine	3	B	Etiampylline		3	B
Dehydrochloromethyltestosterone		3	B	Ethacrynic acid	Edecrin	3	B
Deracoxib	Deremaxx	3	B	Ethosuximide	Zarontin	3	A
Desoxymethyltestosterone		3	B	Ethylestrenol	Maxibolin, Organon	3	B
Detomidine	Dormosedan	3	B	Ethylnorepinephrine	Bronkephrine	3	A
Dextropropoxyphene	Darvon	3	B	Etodolac	Lodine	3	B
Diazoxide	Proglycem	3	B	Felbamate	Felbatol	3	A
Diflunisal		3	B	Fenbufen	Cincopal	3	B
Dimefline		3	A	Fenoldopam	Corlopam	3	B
Diphenhydramine	Benadryl	3	B	Fenopropfen	Naifon	3	B
Dipyridamole	Persantine	3	B	Fenoterol	Berotec	3	B
Divalproex	Depakote	3	A	Fenspiride	Respiride, Respan, etc	3	B
Dobutamine	Dobutrex	3	B	Fentiazac		3	B
Doxazosin		3	A	Flurbiprofen	Froben	3	B
Doxylamine	Decapryn	3	B	Flufenamic Acid		3	B
Dromostanolone	Drolban	3	B	Fluoxymesterone	Halotestin	3	B
Dyphylline		3	B	Flupirtine	Katadolone	3	A
Edrophonium	Tensilon	3	B	Formebolone		3	B
Eletripan	Relpax	3	A	Formoterol	Altram	3	B
Enalapril (metabolite enalaprilat)	Vasotec	3	B	Fosinopril, Fosinoprilat	Monopril	3	A
Ergoloid mesylates		3	B	Fosphenytoin	Cerebyx	3	B
Erthryl tetranitrate	Cardilate	3	A	Furazabol		3	B
				Gabapentin	Neurontin	3	B
				Gestrinone		3	A

Listing by Classification

Class 3: Drugs that may or may not have generally accepted medical use in the racing horse, but the pharmacology of which suggests less potential to affect performance than drugs in Class 2.

Drug	Trade Name(s)	Class	Penalty Class	Drug	Trade Name(s)	Class	Penalty Class
Glycopyrrolate	Robinul	3	B	Medetomidine	Domitor	3	B
Guanadrel	Hylorel	3	A	Mefenamic Acid	Ponstel	3	B
Guanethidine	Ismelin	3	A	Mepenzolate	Cantil	3	A
Guanabenz	Wytensin	3	B	Mestanolone		3	B
Heptaminol	Corofundol	3	B	Mesterolone		3	B
Homatropine	Homapin	3	B	Metaproterenol	Alupent, Metaprel	3	B
Hydralazine	Aprisoline	3	B	Metenolone		3	B
4-Hydroxytestosterone		3	B	Methachloline		3	A
Ibutilide	Covert	3	B	Methandienone		3	B
Iloprost	Ventavis	3	A	Methandriol	Probolis	3	B
Indomethacin	Indocin	3	B	Methandrostenolone	Dianabol	3	A
Ipratropium		3	B	Methantheline	Banthane	3	B
Irbesartan	Avapro	3	A	Methasterone		3	A
Isoetharine	Bronkosol	3	B	Methixene	Trest	3	A
Isosorbide dinitrate	Isordil	3	B	Methoxamine	Vasoxyl	3	A
Kebuzone		3	B	Methoxyphenamine	Orthoxide	3	A
Ketorolac	Toradol	3	A	Methsuximide	Celontin	3	A
Labetalol	Normodyne	3	B	Methylatropine		3	B
Lamotrigine	Lamictal	3	A	Methyldienolone		3	B
Levobunolol	Betagan	3	B	Methyldopa	Aldomet	3	A
Lisinopril	Prinivil, Zestril	3	A	Methylnortestosterone		3	B
Losartan	Hyzaar	3	B	Methyltestosterone	Metandren	3	A
Mabuterol		3	A	Methyl-1-testosterone		3	A
Mecamylamine	Inversine	3	B	Metolazone		3	B
				Metoprolol	Lopressor	3	B

Listing by Classification

Class 3: Drugs that may or may not have generally accepted medical use in the racing horse, but the pharmacology of which suggests less potential to affect performance than drugs in Class 2.

Drug	Trade Name(s)	Class	Penalty Class	Drug	Trade Name(s)	Class	Penalty Class
Mibefradil	Posicor	3	B	Olmesartan	Benicar	3	A
Mibolerone		3	B	Oxabolone		3	B
Midodrine	Pro-Amiline	3	B	Oxandrolone	Anavar	3	B
Minoxidil	Loniten	3	B	Oxcarbazepine	Trileptal	3	A
Moexipril (metabolite moexiprilat)	Uniretic	3	B	Oxprenolol	Trascor	3	B
Muscarine		3	A	Oxymesterone		3	B
Nabumetone	Anthraxan, Relafen, Reliflex	3	A	Oxymetholone	Adroyd, Anadrol	3	B
Nadol	Corgard	3	B	Papaverine	Pavagen, etc.	3	A
Naloxone	Narcan	3	A	Paramethadione	Paradone	3	A
Naltrexone	Revia	3	A	Pargyline	Eutonyl	3	A
Nandrolone	Nandrolin, Laurabolin, Durabolin	3	B	Penbutolol	Levatol	3	B
Naratriptan	Amerge	3	B	Pentaerythritol tetranitrate	Duotrate	3	A
Nebivolol		3	A	Pentazocine	Talwin	3	B
Nefopam		3	A	Perindopril	Biprel	3	A
Neostigmine	Prostigmine	3	B	Phenoxybenzamine	Dibenzyline	3	B
Niflumic Acid	Nifluril	3	B	Phentolamine	Regitine	3	B
Nimesulide		3	B	Phenylephrine	Isophrin, Neo-Synephrine	3	B
Nitroglycerin		3	B	Phenylpropanolamine	Propadrine	3	B
19-Norandrostenediol		3	B	Physostigmine	Eserine	3	B
19-Norandrostenedione		3	B	Pindolol	Viskin	3	A
Norbolethone		3	B	Pirbuterol	Maxair	3	A
Norclostebol		3	B	Piretanide	Arelix, Tauliz	3	B
Norethandrolone		3	A	Piroxicam	Feldene	3	B
Nylidrine	Arildin	3	A	Prazosin	Minipress	3	B

Listing by Classification

Class 3: Drugs that may or may not have generally accepted medical use in the racing horse, but the pharmacology of which suggests less potential to affect performance than drugs in Class 2.

Drug	Trade Name(s)	Class	Penalty Class	Drug	Trade Name(s)	Class	Penalty Class
Primidone	Mysoline		3 B	Sotalol	Betapace, Sotacor		3 B
Procaine			3 B	Spirapril, metabolite	Renomax		3 A
Procaterol	Pro Air		3 A	Spiraprilat			
Procyclidine	Kemadrin		3 B	Stanozolol	Winstrol-V		3 B
Promazine	Sparine		3 B	Stenbolone			3 B
Promethazine	Phenergan		3 B	Sulindac	Clinoril		3 A
Propantheline	Pro-Banthine		3 A	Sumatriptan	Imitrex		3 B
Propentophylline	Karsivan		3 B	Tadalafil	Cialis		3 A
Propranolol	Inderal		3 B	Telmisartan	Micardis		3 B
Prostanazol			3 B	Tenoxicam	Alganex, etc.		3 B
Protokylol	Ventaire		3 A	Tepoxalin			3 B
Pseudoephedrine	Cenafed, NovaFed		3 B	Terazosin	Hytrin		3 A
Pyridostigmine	Mestinon, Regonol		3 B	Terbutaline	Brethine, Bricanyl		3 B
Pyrilamine	Neoanergan, Equihist		3 A	Testolactone	Teslac		3 B
Quinapril, Quinaprilat	Accupril		3 A	Testosterone			3 B
Quinbolone			3 B	Tetrahydrogestrinone			3 A
Ractopamine	Raylean		3 A	Theophylline	Aqualphyllin, etc.		3 B
Ramipril, metabolite	Altace		3 A	Tiaprofenic Acid	Surgam		3 B
Ramiprilat				Timolol	Blocardrin		3 B
Ritodrine	Yutopar		3 B	Tolazoline	Priscoline		3 B
Rizatriptan	Maxalt		3 B	Tolmetin	Tolectin		3 B
Salmeterol			3 B	Torseamide (Torasemide)	Demadex		3 A
Scopolamine (Hyoscine)	Triptone		3 B	Trandolapril (and metabolite, Trandolaprilat)	Tarka		3 B
Sibutramine	Meridia		3 B	Trenbolone	Finoplix		3 B
Sildenafil	Viagra		3 A				

Listing by Classification

Class 3: Drugs that may or may not have generally accepted medical use in the racing horse, but the pharmacology of which suggests less potential to affect performance than drugs in Class 2.

Drug	Trade Name(s)	Class	Penalty Class	Drug	Trade Name(s)	Class	Penalty Class
Trihexyphenidyl	Artane	3	A				
Trimethadione	Tridione	3	B				
Trimethaphan	Arfonad	3	A				
Tripelennamine	PBZ	3	B				
Valerenic acid		3	A				
Valsartan	Diovan	3	B				
Vardenafil	Levitra	3	A				
Xylazine	Rompun, Bay Va 1470	3	B				
Zilpaterol hydrochloride	Zilpaterol	3	A				
Zolmitriptan	Zomig	3	B				
Zonisamide	Zonegran	3	B				
Δ -1-androstene-3, 17-diol		3	A				
Δ -1-androstene-3, 17-dione		3	A				
Δ -1-dihydrotestosterone		3	A				

Listing by Classification

Class 4: This class includes therapeutic medications that would be expected to have less potential to affect performance than those in Class 3.

Drug	Trade Name(s)	Class	Penalty	Class	Drug	Trade Name(s)	Class	Penalty
Acetaminophen (Paracetamol)	Tylenol, Tempra, etc.	4	C	Bendroflumethiazide	Naturetin	4	B	
Acetanilid		4	B	Benoxinate	Dorsacaine	4	C	
Acetazolamide	Diamox, Vetamox	4	B	Benzocaine		4	B	
Acetophenetidin (Phenacetin)		4	B	Benzthiazide		4	B	
Acetylsalicylic acid (Aspirin)		4	C	Bepiridil	Bepadin	4	B	
Alclomethasone	Aclovate	4	C	Betamethasone	Betasono, etc.	4	C	
Adrenochrome		4	B	Bethanechol	Urecholine, Duvoid	4	C	
monosemicarbazone salicylate				Bromhexine	Oleto, etc.	4	B	
Aldosterone	Aldocortin, Electro cortin	4	B	Brompheniramine	Dimetane, Disomer	4	B	
Ambroxol	Ambril, etc.	4	B	Budesonide	Pulmacort, Rhinocort	4	B	
Aminonide	Cyclocort	4	C	Butacaine	Butyn	4	C	
Amiloride	Moduretic; Midamor	4	B	Butamben (butyl aminobenzoate)	Butesin	4	C	
Aminocaproic acid	Amicar, Caprocid	4	C	Butoxycaine	Stadacain	4	B	
Aminodarone		4	B	Camphor		4	C	
2-Aminoheptaine	Tuamine	4	B	Carbazochrome		4	C	
Aminopyrine		4	B	Carprofen	Rimadyl	4	B	
Amisometradine	Rolictron	4	B	Ceizirine	Zyrtec	4	B	
Amlodipine	Norvasc, Ammivin	4	B	Chlormerodrin	Neohydrin	4	B	
Amrinone		4	B	Chlorophenesin	Maolate	4	C	
Anisotropine	Valpin	4	B	Chloroquine	Avioclor	4	C	
Antipyrine		4	B	Chlorothiazide	Diuril	4	B	
Apazone (Azapropazone)	Rheumox	4	B	Chlorpheniramine	Chlortrimeton, etc.	4	B	
Aprindine		4	B	Chlorthalidone	Hydroton	4	B	
Baclofen	Lioresal	4	B	Chlorzoxazone	Paraflex	4	B	
Beclomethasone	Propaderm	4	C	Ciclesonide		4	B	
Benazepril	Lotrel	4	B	Cinchocaine	Nupercaine	4	C	

Listing by Classification

Class 4: This class includes therapeutic medications that would be expected to have less potential to affect performance than those in Class 3.

Drug	Trade Name(s)	Class	Penalty	Drug	Trade Name(s)	Class	Penalty
Cianobutin		4	B	Digoxin	Lanoxin	4	B
Clibucaine	Batrax	4	C	Dihydroergotamine		4	B
Clobetasol	Temovate	4	C	Diltiazem	Cardizem	4	B
Clocortolone	Cloderm	4	C	Dimethisoquin	Quotane	4	B
Clofenamide		4	B	Dimethylsulfoxide (DMSO)	Domoso	4	C
Clormecaine	Placacid	4	C	Diphenoxylate	Difenoxin, Lomotil	4	B
Colchicine		4	B	Dipyrrone	Novin, Methampyrone	4	C
Cortisone	Cortone, etc.	4	C	Disopyramide	Norpace	4	B
Cyclizine	Merazine	4	B	Dyclonine	Dyclone	4	C
Cyclobenzaprine	Flexeril	4	B	Eifenac		4	C
Cyclomethylcaine	Surfacaine	4	C	Ergonovine	Ergotrate	4	C
Cyclothiazide	Anhydron, Renazide	4	B	Ergotamine	Gynergen, Cafergot, etc.	4	B
Cyproheptadine	Periactin	4	C	Etanercept	Enbrel	4	B
Dantrolene	Dantrium	4	C	Ethoheptazine	Zactane	4	B
Dembroxol (Dembrexine)	Sputolysin	4	C	Ethotoin	Peganone	4	B
Deoxycorticosterone	Percortin, DOCA, Descotone, Dorcostrin	4	C	Ethoxzolamide	Cardrase, Ethamide	4	C
Desonite	Des Owen	4	C	Ethylaminobenzoate (Benzocaine)	Semets, etc.	4	C
Desoximetasone	Topicort	4	C	Felodipine	Plendil	4	B
Dexamethasone	Azium, etc.	4	C	Fexofenadine	Allegra	4	C
Dextromethorphan		4	B	Firocoxib		4	B
Dibucaine	Nupercainal, Cinchocaine	4	C	Flecainide	Idalon	4	B
Dichlorphenamide	Daramide	4	C	Floctafenine	Idalon, Idarac	4	B
Diclofenac	Voltaren, Voltarol	4	C	Flucinolone	Synalar, etc.	4	C
Diflorasone	Florone, Maxiflor	4	C	Fludrocortisone	Aiforone, etc.	4	C
Diflucortolone	Flu-Cortinest, etc.	4	C	Flumethasone	Flucort, etc.	4	C
Digitoxin	Crystodigin	4	B	Flumethiazide	Ademol	4	B

Listing by Classification

Class 4: This class includes therapeutic medications that would be expected to have less potential to affect performance than those in Class 3.

Drug	Trade Name(s)	Class	Penalty	Drug	Trade Name(s)	Class	Penalty
Flunarizine	Sibelium	4	B	Letosteine	Viscotol, Visiotal	4	C
Flunisolide	Bronilide, etc.	4	C	Loratidine	Claritin	4	B
Flunixin	Banamine	4	C*	Mecizine	Antivert, Bonine	4	B
Fluocinolone	Synalar	4	C	Meclofenamic acid	Arquel	4	C
Fluocinonide	Licon, Lidex	4	C	Medryson	Medriusar, etc.	4	C
Fluorometholone	FML	4	B	Meloxicam	Mobic	4	B
Fluroprednisolone	Predef-2X	4	C	Mephenesin	Tolserol	4	B
Fluprednisolone	Alphadrol	4	C	Meralluride	Mercurydrin	4	B
Flurandrenolide	Cordran	4	C	Merbaphen	Novasural	4	B
Fluticasone	Flixonase, Flutide	4	C	Mercaptopimerin	Thiomerin	4	B
Guafenesin (glycerol guaicolate)	Gecolate	4	C	Mercumallin	Cumertilin	4	B
Halcinonide	Halog	4	C	Mersalyl	Salyrgan	4	B
Halobetasol	Ultravate	4	C	Metaxalone	Skelaxin	4	B
Hexocycium	Tral	4	B	Methapyrilene	Histadyl, etc.	4	B
Hexylcaine	Cyclaine	4	C	Methazolamide	Naptazane	4	C
Hydrochlorothiazide	Hydrodiuril	4	B	Methdilazine	Tacaryl	4	B
Hydrocortisone (Cortisol)	Cortef, etc.	4	C	Methocarbamol	Robaxin	4	C
Hydroflumethiazide	Saluron	4	B	Methotrexate	Folex, Nexate, etc.	4	B
Ibuprofen	Motrin, Advil, Nurpin, etc.	4	C	Methscopolamine	Pamine	4	B
Infliximab	Remicade	4	B	Methylchlorothiazide	Enduron	4	B
Isoflupredone	Predef	4	C	Methylergonovine	Methergine	4	C
Isometheptene	Octin, Octon	4	B	Methylprednisolone	Medrol	4	C
Isopropamide	Darbid	4	B	Methysergide	Sansert	4	B
Isoxsuprine	Vasodilan	4	C	Metiamide		4	B
Isradipine	DynaCirc	4	B	Metoclopramide	Reglan	4	C
Ketoprofen	Orudis	4	C*	Mexilitine	Mexill	4	B
				Milrinone		4	B

Listing by Classification

Class 4: This class includes therapeutic medications that would be expected to have less potential to affect performance than those in Class 3.

Drug	Trade Name(s)	Class Penalty Class	Drug	Trade Name(s)	Class Penalty Class
Mometasone	Elocon	4 C	Procainamide	Pronestyl	4 B
Montelukast	Singulair	4 C	Propafenone	Rythmol	4 B
Naepaine	Amylsine	4 C	Proparacaine	Ophthaine	4 C
Naphazoline	Privine	4 B	Propylhexedrine	Benzedrex	4 B
Naproxen	Equiproxen, Naprosyn	4 C	Quinidine	Quinidex, Quinocardine	4 B
Nicardipine	Cardine	4 B	Salicylamide		4 C
Nifedipine	Procardia	4 B	Salicylate		4 C
Nimodipine	Nemotop	4 B	Spironolactone	Aldactone	4 B
Nortestosterone		4 C	Sulfasalazine	Azulfidine, Azaline	4 C
Olsalazine	Dipentum	4 B	Terfenadine	Seldane, Triludan	4 B
Orphenadrine	Norifex	4 B	Tetrahydrozoline	Tyzine	4 B
Oxaprozin	Daypro, Deflam	4 C	Theobromine		4 B
Oxymetazoline	Afrin	4 B	Thiosalicylate		4 C
Oxyphenbutazone	Tandearil	4 C	Thiphenamil	Trocinate	4 B
Oxyphencyclimine	Daricon	4 B	Tocainide	Tonocard	4 B
Oxyphenonium	Antrenyl	4 B	Tranexamic acid		4 C
Paramethasone	Haldrone	4 C	Triamcinolone	Vetalog, etc.	4 C
Pentoxyfylline	Trental, Vazofirin	4 C	Triamterene	Dyrenium	4 B
Phenacemide	Phenurone	4 B	Trichlormethiazide	Naqua, Naquasone	4 C
Phensuximide	Milontin	4 B	Tridihexethyl	Pathilon	4 B
Phenylbutazone		4 C*	Trimeprazine	Temaril	4 B
Phenytoin	Dilantin	4 B	Tripolidine	Actidil	4 B
Polythiazide	Renese	4 B	Tuaminoheptane	Tuamine	4 C
Pramoxine	Tronothaine	4 C	Vedaprofen		4 B
Prednisolone	Delta-Cortef, etc.	4 C	Verapamil	Calan, Isoptin	4 B
Prednisone	Meticorten, etc.	4 C	Xylometazoline	Otrivin	4 C
Probenecid		4 C	Zafirlukast	Accolate	4 C

Listing by Classification

Class 4: This class includes therapeutic medications that would be expected to have less potential to affect performance than those in Class 3.

Drug	Trade Name(s)	Class	Penalty	Drug	Class	Penalty	Trade Name(s)	Class	Penalty
Zeranol	Ralgro	4	C						
Zileuton	Zyflo	4	C						

Listing by Classification

Class 5: This class includes those therapeutic medications for which concentration limits have been established by the racing jurisdictions as well as certain miscellaneous agents such as DMSO and other medications as determined by the regulatory bodies.

Drug Trade Name(s) Class Penalty Class

Anisindione		5	C
Cilostazol	Pletal	5	C
Cimetidine	Tagamet	5	D
Cromolyn	Intel	5	C
Dicumarol	Dicumarol	5	C
Dimethylsulphone (MSM)		5	C
Diphenadione		5	C
Esomeprazole	Nexium	5	D
Famotidine	Gaster, etc.	5	D
Lansoprazole		5	D
Mesalamine	Asacol	5	C
Misoprostol	Cytotec	5	C
Nedocromil	Tilade	5	C
Nizatidine	Axid	5	C
Omeprazole	Prilosec, Losec	5	D
Pantoprazole	Protonix	5	D
Phenindione	Hedulin	5	C
Phenprocoumon	Liquamar	5	C
Pirenzapine	Gastrozepin	5	C
Polyethylene glycol		5	C
Rabeprazole	Aciphex	5	C
Ranitidine	Zantac	5	D
Warfarin	Coumadin, Coufarin	5	C

Non-Classified Substances

Substances that are considered to have no effect on the physiology of a racing animal except to improve nutrition or treat or prevent infections or parasite infestations, are not classified. These Substances normally include antimicrobials, antiparasitic drugs, and nutrients such as vitamins. Examples of such substances include the following:

Sulfonamides and trimethoprim

Antibiotics:

- Penicillins
- Cephalosporins
- Chloramphenicol
- Aminoglycosides
- Tetracyclines
- Nitrofurans
- Metronidazole

Anthelmintics:

- Avermectins
- Benzimidazoles
- Piperazines
- Pyrantel
- Tetramisole

Antifungals

Vitamins:

- A, D, E, K, B vitamins
- Vitamin C

Bufotenine

1. It is not commercially available in any form.

2. It is a metabolite of 3-methyl-N,N dimethyltryptamine, found in reed canary grass (and potentially other food source plants). It may be found in the urine of horses eating this grass (and potentially other plant foods), and has been reported as a positive finding.

Findings of bufotenine in equine urine should not be considered for regulatory action.

PENALTY GUIDELINES
FOR VIOLATIONS OF
MEDICATION AND
PROHIBITED SUBSTANCES
RULE

TABLE 178-1 E

The following are recommended penalties for violations due to the presence of a drug carrying a Category "A" penalty.

LICENSED TRAINER		
<p style="text-align: center;">1st Offense</p> <p>Minimum six (6) month <u>one (1) year</u> suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a one (1) three (3) <u>three (3) year</u> suspension.</p> <p style="text-align: center;">AND</p> <p>Minimum fine of \$1,000.00 <u>\$10,000.00 or 10% of total purse (greater of the two)</u> absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum fine of \$5,000.00 <u>\$25,000.00 or 25% of purse (greater of the two)</u>.</p> <p style="text-align: center;">AND</p> <p>May be referred to the Racing Commission for any further action deemed necessary by the Commission.</p>	<p style="text-align: center;">2nd LIFETIME offense in any jurisdiction</p> <p>Minimum one (1) <u>three (3) year</u> suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a three (3) year suspension permit revocation with no reapplication for a three (3) year period.</p> <p style="text-align: center;">AND</p> <p>Minimum fine of \$2,500.00 <u>\$25,000.00 or 25% of total purse (greater of the two)</u> absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum fine of \$5,000.00 <u>\$50,000.00 or 50% of purse (greater of the two)</u>.</p> <p style="text-align: center;">AND</p> <p>May be referred to the Racing Commission for any further action deemed necessary by the Commission.</p>	<p style="text-align: center;">3rd LIFETIME offense in any jurisdiction</p> <p>Minimum three (3) <u>five (5) year</u> suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a five (5) year suspension permit revocation with no reapplication for a five (5) year period.</p> <p style="text-align: center;">AND</p> <p>\$5,000.00 <u>Minimum fine of \$50,000.00 or 50% of total purse (greater of the two)</u> absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of <u>\$100,000.00 or 100% of purse (greater of the two)</u>.</p> <p style="text-align: center;">AND</p> <p>May be referred to the Racing Commission for any further action deemed necessary by the Commission.</p>

LICENSED OWNER		
<p style="text-align: center;">1st Offense</p> <p>Disqualification and loss of purse.</p> <p style="text-align: center;">AND</p> <p>Horse may <u>shall</u> be placed on the veterinarian's list for ninety (90) days and must pass a Commission approved examination before becoming eligible to be entered.</p>	<p style="text-align: center;">2nd LIFETIME offense in any jurisdiction</p> <p>Disqualification and loss of purse.</p> <p style="text-align: center;">AND</p> <p>Horse shall be placed on the veterinarian's list for one hundred twenty (120) days and must pass a Commission approved examination before becoming eligible to be entered.</p>	<p style="text-align: center;">3rd LIFETIME offense in any jurisdiction</p> <p>Disqualification, loss of purse and \$5,000.00 <u>\$50,000.00</u> fine.</p> <p style="text-align: center;">AND</p> <p>Horse shall be placed on the veterinarian's list for one hundred eighty (180) days and must pass a Commission approved examination before becoming eligible to be entered.</p> <p style="text-align: center;">AND</p> <p>Referral to the Commission with a recommended minimum suspension of ninety (90) days.</p>

TABLE 178-1 E

The following are recommended penalties for violations due to the presence of a drug carrying a Category "B" penalty, or for the presence of more than one NSAID in a plasma/serum sample, subject to the provisions of paragraph 49.6.a.3. of this rule, and for violations of the established levels for total carbon dioxide.

LICENSED TRAINER		
<p>1st offense (365 day period in any jurisdiction)</p> <p>Minimum fifteen (15) day suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a thirty (30) <u>sixty (60)</u> day suspension.</p> <p style="text-align: center;">AND</p> <p>No <u>Minimum fine of \$500.00 absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of \$1,000.00.</u></p> <p style="text-align: center;">AND</p> <p>May be referred to the Racing Commission for any further action deemed necessary by the Commission.</p>	<p>2nd offense (365 day period in any jurisdiction)</p> <p>Minimum thirty (30) day suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a forty-five (45) <u>180</u> day suspension.</p> <p style="text-align: center;">AND</p> <p>Minimum fine of \$500.00 <u>\$1,000.00</u> absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum fine of \$1,000.00 <u>\$2,500.00</u>.</p> <p style="text-align: center;">AND</p> <p>May be referred to the Racing Commission for any further action deemed necessary by the Commission.</p>	<p>3rd offense (365 day period in any jurisdiction)</p> <p>Minimum forty-five (45) <u>sixty (60)</u> day suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a sixty (60) day <u>one (1)</u> year suspension.</p> <p style="text-align: center;">AND</p> <p>Minimum fine of \$1,000.00 <u>\$2,500.00</u> absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum fine of \$2,000.00 <u>\$5,000.00</u> or 5% of purse (greater of the two).</p> <p style="text-align: center;">AND</p> <p>May be referred to the Racing Commission for any further action deemed necessary by the Commission.</p>

LICENSED OWNER		
<p>1st offense (365 day period in any jurisdiction)</p> <p>Disqualification and loss of purse [<u>in the absence of mitigating circumstances</u>].</p> <p style="text-align: center;">AND</p> <p>Horse must pass a Racing Commission approved examination before becoming eligible to be entered.</p>	<p>2nd offense <u>in stable</u> (365 day period in any jurisdiction)</p> <p>Disqualification and loss of purse [<u>in the absence of mitigating circumstances</u>].</p> <p style="text-align: center;">AND</p> <p>Horse must pass a Racing Commission approved examination before becoming eligible to be entered.</p>	<p>3rd offense <u>in stable</u> (365 day period in any jurisdiction)</p> <p>Disqualification, loss of purse and <u>in the absence of mitigating circumstances a</u> \$1,000.00 <u>\$5,000.00</u> fine.</p> <p style="text-align: center;">AND</p> <p><u>Horse shall be placed on the veterinarian's list for forty-five (45) days and Horse must pass a Racing Commission approved examination before becoming eligible to be entered.</u></p>

TABLE 178-1 E

The following are recommended penalties for violations due to the presence of a drug carrying a Category “C” penalty and overages for permitted NSAIDs and furosemide: **(All concentrations are for measurements in serum or plasma.)**

LICENSED TRAINER	Phenylbutazone (5.1-9.9 >2.0-5.0 mcg/ml) Flunixin (21-99 >20-100 ng/ml) Ketoprofen (11-49 >10-50 ng/ml) Furosemide (>100 ng/ml) and/or no furosemide when identified as administered**	Phenylbutazone (≥10.0 >5.0 mcg/ml) Flunixin (>100 ng/ml) Ketoprofen (>50 ng/ml) and CLASS C VIOLATIONS
1st Offense (365-day period) in any jurisdiction	Minimum of a <u>written warning to a maximum fine of \$250 absent mitigating circumstances \$500.00</u>	Minimum fine of \$500 <u>\$1,000.00</u> absent mitigating circumstances
2nd Offense (365-day period) in any jurisdiction	Minimum of a <u>written warning to a maximum fine of \$500 absent mitigating circumstances \$750.00</u>	Minimum fine of \$1,000 <u>\$1,500.00</u> and 15-day suspension absent mitigating circumstances
3rd Offense (365-day period) in any jurisdiction	Minimum fine of \$1,000 and 15-day suspension absent mitigating circumstances \$500.00 and to a <u>maximum fine of \$1,000.00</u>	Minimum fine of \$2,500 and 30-day suspension absent mitigating circumstances
LICENSED OWNER	Phenylbutazone (5.1-9.9 >2.0-5.0 mcg/ml) Flunixin (21-99 >20-100 ng/ml) Ketoprofen (11-49 >10-50 ng/ml) Furosemide (>100 ng/ml) and/or no furosemide when identified as administered**	Phenylbutazone (≥10.0 >5.0 mcg/ml) Flunixin (>100 ng/ml) Ketoprofen (>50 ng/ml) and CLASS C VIOLATIONS
1st Offense (365-day period) in any jurisdiction	<u>Horse may be required to pass a Racing Commission approved examination before being eligible to run.</u>	Loss of purse. Horse must pass commission-approved examination before being eligible to run.
2nd Offense (365-day period) in any jurisdiction	<u>Horse may be required to pass a Racing Commission approved examination before being eligible to run.</u>	Loss of purse. If same horse, placed on veterinarian’s list for 15 <u>45</u> days, must pass commission-approved examination before being eligible to run
3rd Offense (365-day period) in any jurisdiction	<u>Disqualification and loss of purse. Horse must pass Racing Commission approved examination before being eligible to run.</u>	Loss of purse. <u>Minimum \$5,000.00 fine.</u> If same horse, placed on veterinarian’s list for 30 <u>60</u> days, must pass commission-approved examination before being eligible to run

If the trainer has not had more than one violation within the previous two years, the stewards are encouraged to issue a warning in lieu of a fine provided the reported level is below 3.0 mcg/ml, absent aggravating factors.

After a two year period, if the permit holder has had no further violations, any penalty due to an overage in the 2.0 - 5.0 category shall be expunged from the permit holder’s record for penalty purposes.

erika zimpfer careflightnurse@yahoo.com

TB001

Erika Zimpfer



Jul 30

Received 07/30/2012 1211

I am in complete support... and hooray for you for standing up and showing you care about the horses that pay your bills!

Lorena Taft lm.taft2@lycos.com

Jul 30

West Virginia Racing Commission

I support a statewide anti-slaughter rule that would require ALL tracks to comply with a no-horse-to-slaughter rule.

Lorena M. Taft

Elkins, WV

TB002

Lorena Taft

Received 07/30/2012 1031



TB003

Leslie Hatfield

Received 07/30/2012 0944



----- Forwarded message -----

From: Leslie Hatfield <leslie.hatfield@verizon.net>

Date: Mon, Jul 30, 2012 at 9:44 AM

Subject: support for your anti-horse slaughter bill

To: "wvthoroughbredrulecomments@gmail.com" <wvthoroughbredrulecomments@gmail.com>

Dear West Virginia Racing Commission:

I fully support the anti-horse slaughter bill below. I commend you for it.

Part 5 Issuance of Permits and Duties of Permit Holders

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

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

section 24.11.p.: has knowingly or without conducting proper due diligence, sold a horse for slaughter, directly or indirectlySee More

Sincerely,

Leslie Hatfield

TB004

Mary Jo Gilmore

Received 07/30/2012 1239



Mary Jo Gilmore racehorse8@midamer.net

Jul 30

I totally support the plan to ban trainers from selling horses to slaughter houses or the killer buyers. It would do much to help the sport of kings not to do this to our athletes when we are finished with them.

Thank you.

Mary Jo Gilmore

From: Doris McQuiddy <d_mcquiddy@bellsouth.net>
Date: Sun, Jul 29, 2012 at 4:15 PM
Subject: Comment on proposed rule changes
To: wvthoroughbredrulecomments@gmail.com

TB005

Doris McQuiddy

Received 07/29/2012



1615

I want to comment on:

Part 5 Issuance of Permits and Duties of Permit Holders

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

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

section 24.11.p.: has knowingly or without conducting proper due diligence, sold a horse for slaughter, directly or indirectly

Thank you so much for including this requirement pertaining to selling a horse for slaughter, directly or indirectly. This has been a major concern of mine and also many of my friends for a number of years. It has been an obstacle preventing many of us from the enjoyment of seeing the horses race and this removes the obstacle when the rule goes into effect.

Sincerely,

Doris McQuiddy
P O Box 509
Fort Deposit, AL 36032

TB006

Hannah Stark

Received 07/30/2012 0913



Hannah Stark appaloosaredd26@hotmail.com

Jul 30

The West Virginia Racing Commission is proposing a statewide anti-slaughter rule that would require ALL tracks to comply with a no-horse-to-slaughter rule. I AGREE WITH THIS... HORSES ARE NOT MEANT FOR FOOD THEY ARE COMPANIONS AND THEY FEEL PAIN AND EXPERIENCE FEAR. NO HORSE SHOULD HAVE TO GO THROUGH THE HORRORS OF SLAUGHTER.

Thank You, Hannah Stark

TB007

Barbara Leonard

Received 07/30/2012 1146



Barbara Leonard blpaints@hotmail.com

Jul 30

Just to let you know, I am in complete support of your anti-slaughter rule for thoroughbreds. Thank you for taking a stand against horse slaughter.

Barbara Leonard, 4574 State Highway V, Seymour MO 65746.

Becky meandu2r1@yahoo.com

Jul 30

Dear Reader,

I support a statewide anti-slaughter rule that would require ALL tracks to comply with a no-horse-to-slaughter rule. Horses used in racing deserve a home after retirement, not slaughter. The right thing to do is to help racehorses have a second chance at another job. Be a leader in the US for promoting a positive image of the racing industry in your state.

Thank you,

Becky Strassner

Becky Strassner
EAGALA Certified Equine Specialist
Frank Bell Accredited Instructor
www.naturalhorseway.com
(512) 576-7199

TB008

Becky Strasser

Received 07/30/2012 1041



TB009

Sybil Miller

Received 07/30/2012 0906



sybmil56@gmail.com

Jul 30

Dear Members of the West Virginia Racing Commission,

I am writing in support of the anti-slaughter ruling and urge you to adopt this as part of the proposed changes for 2012.

Nothing is more abusive than to send a horse into the slaughter pipeline. From start to finish it is a cruel industry. I have seen more times than I ever wanted to how a horse becomes quickly physically and emotionally scarred, uncared for, injured, and ultimately killed in the most inhumane way. I know I don't need to go into any more detail on this as you have surely seen and read enough on this issue. To have our fantastic racing athletes cast off into this system is wrong on every level, especially when there are other options (which may, in some cases, include humane euthanasia).

You are all very aware of the racehorse Deputy Broad, sent to slaughter just a year ago from Mountaineer, even though there were individuals who wanted him and would have gladly provided him a new home. You are also well aware of the pending case of Mark Wedig; again, both of the horses there, Cactus Cafe and Canuki, had homes waiting for them, yet Wedig sent them to slaughter without even attempting to place them. Those two horses were lucky as they were returned, but that is truly an exception and not the rule. Callous trainers and owners simply cannot continue to send horses to slaughter because they have become inconvenient and for no other reason.

Sending horses to slaughter once they are through racing is a huge black eye for racing and in particular, for racing in West Virginia. By enacting this rule, you will send a message not only to owners and trainers, but to fans and all tracks across the country that business-as-usual in West Virginia just isn't good enough anymore, and people in racing need to take responsibility for the well being of the animals they earn the livings from.

Some will protest this rule as being too hard to comply with; and I would say that those are some of the people that need to seriously reconsider either their ethical business standards or their choice of career. Racing does not need more bad PR, and this is a great opportunity to put a good foot forward and show true leadership.

Fans love the horses. I know, I am one of them. (And I also own an ex-racehorse, he is an amazing, talented, funny being that will never fall into the wrong hands.)

Thank you for your time, and truly THANK YOU for adding this new rule. It will benefit everyone and every horse. Whatever difficulties or inconveniences it may create can be solved by the intelligent men and women in racing, and those of us willing to work on positive solutions.

Sybil Miller (administrator of the RIP Deputy Broad Facebook page and website, and member of the North American Thoroughbred Aftercare Coalition -NAMTAC)

5338 Sendero Hills Pkwy
Austin, TX 78724

TB010

Daniela Koerfer

Received 07/30/2012 1057



Daniela Koerfer dkoerfer63@gmail.com

Jul 30

The West Virginia Racing Commission is proposing a statewide anti-slaughter rule that would require ALL tracks to comply with a no-horse-to-slaughter rule.

I AM SUPPORTING THIS RULE!

Sincerely

TB011

Jo-Claire Corcoran

Received 07/28/2012 2249



Jo-Claire Corcoran jo-claire@live.com

Jul 28

Part 5 Issuance of Permits and Duties of Permit Holders

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

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

section 24.11.p.: has knowingly or without conducting proper due diligence, sold a horse for slaughter, directly or indirectly

I strongly support WV Racing Commission adopting a no slaughter policy for all of their tracks.

Sincerely,

Ellen Bayer ellenbayer@depauw.edu

Jul 30

TB012

Ellen Bayer

Received 07/30/2012 1355



Dear West Virginia Racing Commission,

I write to applaud your proposal for a state-wide anti-slaughter rule. It's time that those in the racing industry take responsibility for the lives of the horses entrusted to their care. All too often I see unwanted racehorses abandoned in the auction houses after they are no longer "of use." This is appalling, unethical behavior, and this rule is an important first step in ending it. I encourage you to continue your efforts; my hope is that this initial step can lead the way to a national anti-slaughter rule for all tracks and racehorse owners.

Sincerely,

Dr. Ellen M. Bayer

Shirley Smith sky14smithranch@gmail.com

Jul 30

TB013

Shirley Smith

Received 07/30/2012 1418



I totally support all tracks to comply to----- (NO-horse-to-slaughter-rule) Thank you.

TB014

Barbara Wood



Received 07/30/2012

1522

To all involved in the latest rules concerning horses shipped to slaughter:

I do so applaud your recent efforts to stop unscrupulous trainers from shipping horses to Canada or Mexico from the track. Thank you so much. However, I hope you will include as part of the plan some oversight of the stewards themselves, because it appears that they are the ones who hold the key to the success or failure of the plan and the intent of the rule.

Many former racing enthusiasts have turned away from racing as they learn of the ones who have ended up at slaughter plants.

It is my fervent hope that more and more tracks will see the wisdom of protecting the very ones who pay their bills—the horses.

Will keep an eye on this. I really hope it works out for the benefit of all.

Sincerely,

Barbara Wood
Waco, TX

hoofbeats1949@gmail.com hoofbeats1949@gmail.com

Jul 30

I agree that there should be an anti-slaughter ban on all racetracks.

Maxine Dunninger Hohneker

TB015

Maxine Hohneker

Received 07/30/2012



1609

lylecaroleklumb@centurytel.net

Jul 30

To Whom:

I am pleased to see the requirement about anti-horse slaughter in writing and enforceable as a rule.

Thank you,

Carole Klumb

TB016

Carole Klumb

Received 07/30/2012 1626



TB017

Mary Johnson

Received 07/30/2012 1748



Mary Johnson cconroy4150@att.net

Jul 30

Dear Members of West Virginia Racing Commission,

I am asking you to support the anti-slaughter ruling and urge all of you to adopt this as part of the proposed changes for 2012. For many years, the racing industry has been a major supplier of the slaughter pipeline and has turned a blind eye to what really occurs on the backsides of tracks throughout the country. As someone who has been involved with horses for over 50 years and who also owns OTTB's, I am hopeful that West Virginia will take the lead and stand up for the horses that provide so many with the opportunity to put bread and butter on their tables. The horses are the major players in the racing industry and should not be treated as if they are the "bit" players who are of no significance when they are no longer productive. The public will no longer tolerate that type of attitude and many are stepping up to the plate to help owners and trainers who want to do the right thing for these gifted athletes. Racing does NOT need more negative publicity. Therefore, I am asking the WV Racing Commission to do the right thing for their wonderful horses.

By the way, I am the person who found out that Deputy Broad, based out of Mountaineer, had been handed off for slaughter by Mr. Danny R. Bird last July. I promised Ms. Williams, Racing Director at Mountaineer, that Deputy Broad would NEVER be forgotten and I have kept my promise. I am also the person who discovered that Mark Wedig, a well-known kill buyer middleman, had left Beulah Park with Cactus Café and Canuki. Those two horses actually were INSIDE the slaughter plant when the plant opted not to "process" them because they were filled with drugs from racing. To my knowledge, this was the FIRST time that TB's INSIDE the plant were rejected and now the slaughter plant (Richlieu) will no longer be accepting TB's. Of course, that is a small victory but it is a victory, none the less.

This is an opportunity for the racing officials in West Virginia to set the standard in the racing industry and become a role model not only in WV, but in states throughout the country. I can assure you that our group will work with you in order to help you come up with solutions for the problems associated with unwanted horses. Working together, we can help the horses who are the very reason that racing exists. Thank you for your time and feel free to contact me with questions or concerns.

Regards,

Mary Johnson

4150 E. Johnstown Rd.
Columbus, OH 43230

614-565-9400 (cell)

Member of NAMTAC (North American Thoroughbred Aftercare Coalition)

TB018

Ruth Lenahan

Received 07/30/2012 1351



ruthlenahan ruthlenahan@commspeed.net

Jul 30

I support the anti-slaughter rule/rulings for all Thoroughbreds at all Thoroughbred racetracks.

I am very anti-slaughter, especially of Thoroughbreds. If they cannot be rehabilitated, I am for humane euthanasia.

thetbconnection@gmail.com

Jul 30

Please put this in place. I have a TB Rescue/Retirement facility only an hour n a half from Mountaineer. Owner surrenders require at least \$550 surrender fee to cover costs til horse is placed if injurys permit re-placement for new careers. Retirees need sponsors \$275/mth but this insures non slaughter. A friend suggested calling this Rule "The Deputy Broad Rule". I agree with them. Contact for paypal donations giveforthehorses@gmail.com. Thank you
Sincerely

Vicki Spina Vilchek

Sent on the Sprint® Now Network from my BlackBerry®

TB019

Vicki Spina Vilchek



Received 07/30/2012 1820

TB020

Marlene Murray

Received 07/30/2012 1850



info@racefund.org

Jul 30

Dear West Virginia Racing Commission:

As a 501 C 3 non-profit organization that helps thoroughbred racehorses and has also saved many thoroughbreds from going to slaughter that have raced both at Mountaineer Park and Charlestown racetracks we very much support the anti-slaughter/no slaughter provision below to be added in the West Virginia Rules of Racing. We also hope that you will consider naming this rule the Deputy Broad Rule or Special Deputy Broad Provision. Although many thoroughbreds have unfortunately died by way of slaughter prior to Deputy Broad, he was the horse that brought the slaughter issue to the forefront in West Virginia and he should be honored by naming this rule or provision after him. He deserves that much as do all thoroughbreds who have travelled down the horrendous journey to slaughter and died a horrific death.

There are still too many thoroughbreds going to slaughter and it needs to stop. There needs to be stiff penalties and swift action taken against owners and trainers that dispose of their horses in this way. It will not stop unless these provisions are put in place and owners and trainers know there are serious consequences to their actions and actions are taken against them. A few questions: Will there be reciprocity with other racing jurisdictions in other states? Will a list be made of the offenders and easily obtained so it is known who the offenders are?

Although, the current issue at hand is this rule and we commend you for introducing this and are hopeful it will be included in the West Virginia Rules of Racing, there are other issues that racetracks in West Virginia and other racetracks across the country must eventually deal with as well, which is providing the substantial perpetual funding that is needed for racehorse retirement and rehabilitation and putting a real retirement and rehabilitation program in place. This is a workable issue and we must all work together for the betterment of racing and to ensure the safety and welfare of the horses.

Thank you so much for allowing us to provide our input. Please feel free to contact us if you have any questions.

Sincerely,

Marlene Murray, President
R.A.C.E. Fund, Inc.
8031 Rabbit Lane
Harrisburg, PA 17112
717-469-2789
Fax#: 717-469-2182
info@racefund.org
www.racefund.org

Part 5 Issuance of Permits and Duties of Permit Holders 178-1-24. General Provisions Applicable to All Permit Applicants and Permit Holders. 24.11 Grounds for Denial, Suspension or Revocation of Permit. The Racing Commission and/or the stewards may, in their discretion, refuse to issue or renew an occupation permit to an applicant, or may in their discretion suspend, revoke, or impose other

disciplinary measures upon an occupational permit issued pursuant to this rule, if the applicant or permit holder: section 24.11.p.: has knowingly or without conducting proper due diligence, sold a horse for slaughter, directly or indirectly

TB021

Mary G. Scollin

Received 07/30/2012 1912



Mary Scollin mscollin@roadrunner.com

Jul 30

I understand that the West Virginia Racing Commission is proposing a statewide anti-slaughter rule that would require ALL tracks to comply with a no-horse-to-slaughter rule. I STRONGLY support this rule. This would make it far easier for the individual tracks to enforce their own anti-slaughter rulings, and would bring much needed consistency and oversight to this issue.

Thank you.

Mary G Scollin
Saranac Lake, NY

maureen durkin mdurkin1@yahoo.com

Jul 30

I agree that all tracks should comply with a no slaughter rule. There are more humane ways to deal with unwanted horses. Many are willing to take horses, they are just not aware that they are available. I support anti-slaughter for ALL tracks.

Thank you.

Sincerely,

Maureen

TB022

Maureen Durkin

Received 07/30/2012 2018



TB023

Lee Bender

Received 07/30/2012 2225



Lee Bender arabiancountry1@yahoo.com

Jul 30

Im overjoyed at your proposed statewide anti slaughter rule ... No Slaughter rule for race tracks / race horses. Long overdue and if you can get it in place and make it work other tracks and states can follow!

Sent from my iPhone

Jeff Wenzel JWenzel@momentummobile.com

Jul 31

To whom it may concern,

My name is Jeff Wenzel and I am writing you this letter in support of the No Horse-to-Slaughter Rule that is being proposed within your commission. I feel that the inhumane treatment and killing of racehorses that may not perform as well as hoped, is unethical and wrong. Please accept this letter as my formal support of this rule.

Best Regards,

Jeff Wenzel
Sr. Development Consultant

800-616-0082 ext. 103
813-368-8089 cell
877-886-5990 fax

www.momentummobile.com

jwenzel@momentummobile.com

TB024

Jeff Wenzel

Received 07/31/2012 1026



John Wenzel john.wenzel@att.net

Jul 31

To whom it may concern,

My name is John T. Wenzel, a long-time thoroughbred racing fan and I am writing you this letter in support of the No Horse-to-Slaughter Rule that is being proposed within your commission. I feel that the inhumane treatment and killing of racehorses that may not perform as well as hoped, is unethical and wrong. Please accept this letter as my formal support of this rule.

Respectfully,

John T. Wenzel

Sent from my iPhone

TB025

John Wenzel

Received 07/31/2012 1102



TB026

Nadia Reed



Received 07/31/2012 1350

Nadia Reed nreed@momentummobile.com

Jul 31

To whom it may concern,

My name is Nadia Reed and I am writing you this letter in support of the No Horse-to-Slaughter Rule that is being proposed within your commission. I feel that the inhumane treatment and killing of racehorses that may not perform as well as hoped, is unethical and wrong. Please accept this letter as my formal support of this rule.

Respectfully,

Best Regards,

Nadia Reed
Sr. Development Consultant

800-616-0082 ext. 104
813-735-9111 cell
877-866-5990 fax

www.momentummobile.com
nreed@momentummobile.com

TB027

Stacy Ferris

Received 07/31/2012



1852

Stacy Ferris myheartseyes@msn.com

Jul 31

Stacy Ferris

Equine Welfare Advocat and member of www.equinewelfarealliance.org

Member of www.equi-army-ndo.com

We are their voices

"Animals do have a voice. If you ignore their suffering, I will remind you of it. If you don't understand them, I will translate. If you don't hear them, I will be their voice. You may silence them but you cannot silence me as long as I live." ~~ Anita Mahdessian

SGORDON718@aol.com

7/31/12

we support this revised rule regarding horse slaughter

respectfully

marie sherman

sgordon718@aol.com

TB028

Marie Sherman

Received 07/31/2012



2047

TB029

Jessi Pizzurro

Received 08/01/2012 2101



Jessi Pizzurro jpizzurro@comcast.net

Aug 1

I do NOT support the no horse to slaughter rule – as a racehorse trainer and long time horse lover I hate the idea of slaughter but realize that it is a necessary evil. Far better for horses to be slaughtered in the US under humane conditions than trucked to Mexico or Canada to be slaughtered there under less than ideal conditions. Not all horses will be viable prospects for lives after racing. Why euthanize these horses when they can serve a useful purpose via the renderer? Slaughter has a place – not a pretty one, but it does have a place and serve a purpose. Horses are livestock, not pets, and we need to remember that. We need to have an outlet to be able to sell our horses that are no longer useful – it is unconstitutional that owners/trainers are not allowed to sell horses at local auctions for fear that they might end up going to slaughter. Unconstitutional for the certain few to dictate that we have that avenue closed to us while the rest of the USA is allowed to utilize the lower end auctions where the cast offs are liable to go to slaughter.

We need slaughter – we need it regulated and we need it in the US so the horses are no longer sent to Canada and Mexico to be slaughtered under inhumane and unregulated conditions.

Owner and TB trainer,

Jessica Pizzurro

TB030

D. Zook

Received 08/13/2012 0839



dzook@frontier.com dzook@frontier.com

Aug 13

comment on the 18 to 16 year old rule. My family has been in the racing business for over 50 years . I grew up around the track . I started riding when I was 16 and then became a trainer at 28. But the family was still invlved my son grew up around horses and helped a lot. It taught him alot of responsibility and respect for peoples hard work and the animals. the children growing up today have no respect for people and animals bit if you meet a child of a person of the racetrack they show respect and manners. These familys need the children to be there for them because of the next generation of horsemen. They need to learn the aspects of horsemanship and the responsibility of caring for the animals. The 4-hers and barrelracing organizations are very active in including kids in their organizations because the next generation of horse lovers are OUR CHILDREN AND GRANDCHILDREN!!!! My grandson is now 12 and he is a barrelracer and horse person. He is very responsible and knowledgable around horses, but he is upset he cant come to the see the horse he helped care for and raise at the farm ,at the track. In a time when children have no interest but games and iphone help the obesity level in children and keep them active and interested in our racing industry. My son grew up to sreve his country as a USMarine and is now a trainer and my grandson is an active horserider lets keepthe next generation interested in the Sport of Racing. My opinion on the bute level is if you had Mountaineer fix the racetrack they could lower the bute level , the racing surface here right now is really bad. HARD and UNEVEN cant keep horses sound when the track is this hard!!!!!!!!!!!!

TB031

Eileen Paramore eileen_paramor@yahoo.com

Eileen Paramore



Aug 7

Received 08/07/2012 1344

I truly support the no horse to slaughter rule! No horses should be slaughtered for the rich to dine on overseas. they are a magnificent and beautiful animal that is truly amazing. Race horses have so much heart and want to please their owners and what do they get in return a horrific ending on a plate for the rich to dine on. It's an atrocity and should be stopped totally. The horse is our companions and helped build this country to what it is today and this is how we repay them. Sick, just sick and it makes me sick and sad to know that this goes on. These Thoroughbreds make their owners money and then when they are no good to them anymore it's off to the slaughter house. Sickening!!! I wholeheartedly support the "no horse to slaughter rule"

Thankyou for taking the time to read my opinion. It is much appreciated.

Sincerely,

Eileen Paramore



TB032

K. Talbott

Received 08/10/2012 1426



STATE OF WEST VIRGINIA
OFFICE OF THE ATTORNEY GENERAL
CHARLESTON, WEST VIRGINIA 25305

DARRELL V. MCGRAW, JR.
ATTORNEY GENERAL

(304) 558-2021
FAX (304) 558-0140

August 10, 2012

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

Re: Public Comment on 178 W. Va. C.S.R. 1, Thoroughbred Racing Rule

Dear Commissioners:

Please accept and consider this public comment on the Thoroughbred Racing Rule. In July 2012, the Association of Racing Commissioners International (RCI), amended its Model Rule on Extracorporeal Shock Wave Therapy. The West Virginia Racing Commission currently has in its Thoroughbred Racing Rule provisions that regulate the use of this therapy. The new amendments to the RCI Model Rule are obviously not included in the West Virginia Racing Commission's current rule inasmuch as the amendments were adopted only last month by RCI.

These new RCI Model Rule amendments prohibit a treated horse from both racing *and* training for a minimum of ten days following the treatment. (The old Model Rule only placed this ten day prohibition on the racing of a horse.) Moreover, the new RCI Model Rule Amendments specify that the machines used to administer the therapy must be registered and approved and used at disclosed locations on the racetrack; that such therapy must be reported to the State Veterinarian within one day of treatment; and, that a treated horse must be placed on an ineligible list that is published in the racing office. In essence, the RCI Model Rule amendments tighten up the regulation of Extracorporeal Shock Wave Therapy. I have attached a copy of the RCI Model Rule amendments for your information.

I wish to draw these recent RCI Model Rule amendments to your attention inasmuch as I believe that the Commission should consider adopting these amendments into its Thoroughbred Racing Rule. Obviously, the safety and welfare of the horses and riders that participate in racing in West Virginia are paramount. These amendments address those safety and welfare issues as it pertains to the use of Extracorporeal Shock Wave Therapy.

Thank you for your attention to this matter.

Sincerely,

Kelli D. Talbott
Senior Deputy Attorney General

Enclosure

cc: Jon Amores, Executive Director

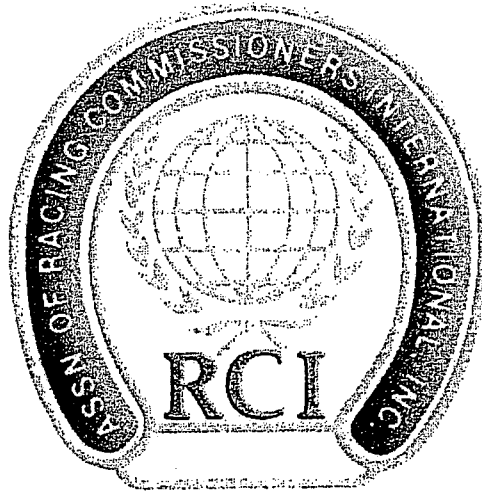
Kelli Talbott Kelli.Talbott@wvago.gov

Aug 10

Attached is my public comment pertaining to the shock wave therapy provisions in the Thoroughbred Racing Rule.

Thanks.

Kelli D. Talbott
Senior Deputy Attorney General
State Capitol, Bldg. 1, Room E-26
Charleston, West Virginia 25305
Ph: (304) 558-2021
Fax: (304) 558-0140
kelli.talbott@wvago.gov



Item 8

Petition for Rule Change –
Language Pertaining to
Extracorporeal Shock Wave
Therapy

Submitted by
The Jockeys' Guild

EQUINE VETERINARY PRACTICES, HEALTH AND MEDICATION - CHAPTER 11

ARCI-011-015 Prohibited Practices

The following are considered prohibited practices:

- (1) The possession or use of a drug, substance or medication on the premises of a facility under the jurisdiction of the Commission for which a recognized analytical method has not been developed to detect and confirm the administration of such substance; or the use of which may endanger the health and welfare of the horse or endanger the safety of the rider; or the use of which may adversely affect the integrity of racing; or,
- (2) The possession or use of a drug, substance, or medication on the premises of a facility under the jurisdiction of the Commission that has not been approved by the United States Food and Drug Administration (FDA) for any use in (human or animal) is forbidden without prior permission of the Commission or its designee.
- (3) The possession and/or use of blood doping agents, including but not limited to those listed below, on the premises of a facility under the jurisdiction of the Commission is forbidden:
 - (a) Erythropoietin;
 - (b) Darbepoetin;
 - (c) Oxyglobin®; and
 - (d) Hemopure®.
- (5) (4) The use of Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy shall not be permitted unless the following conditions are met:
 - (a) Any treated horse shall not be permitted to race or train for a minimum of 10 days following treatment;
 - (b) The use of Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy machines shall be limited to veterinarians licensed to practice by the Commission using registered and approved machines at a previously-disclosed location;
 - (c) Any Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy machines on the association grounds must be registered with and approved by the Commission or its designee before use;
 - (d) All Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy treatments must be reported within one (1) day to the official veterinarian on the prescribed form not later than the time prescribed by the official veterinarian. The horse shall be added to a list of ineligible horses. This list shall be kept in the race office and accessible to jockeys and/or their agents during normal business hours;

~~(6)(c)~~ Any person participating in the use of ESWT and/or in the possession of ESWT machines in violation of this rule shall be considered to have committed a prohibited practice and is subject of a Class A penalty.

~~(6)~~ (5) The use of a nasogastric tube (a tube longer than six inches) for the administration of any substance within 24 hours prior to the post time of the race in which the horse is entered is prohibited without the prior permission of the official veterinarian or his/her designee.

TB033

Janene Watson

Received 08/11/2012 1136



jadiwatson@comcast.net

Aug 11

Following are my public comments on the Proposed amendments for Rule changes due August 13, 2012.

Thank you for your consideration on correcting the following five rules;

6.1 - 8.5.g.2. - 39.1.a. - old 39.1.e. - old 39.1.f.

Janene Watson - 30 yr WV licensed Owner- Trainer

§178-1-6. Ejection/Exclusion

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

Note: This rule needs to be changed to reflect the Supreme Court of Appeals Order #10153 dated November 18, 2011.

STEWARDS

8.5.g.2. assess a fine not to exceed five thousand dollars per violation. Any fine over five thousand dollars will be assessed by the WV Racing Commission;

Note: Anything over \$5,000 is putting way too much responsibility on the Stewards.

§178-1-39. Entries and Nominations

(My Proposed Rule Change) - Keep it simple and replace the 39.1.a. rule with -

39.1.a. A horse must be qualified at time of entry and remain qualified through the start of the race for which it is entered.

Note: This rule as written, has been proven in the past to be defective since you must denote----- that the horse must be qualified at time of entry and continues to qualify through the time of starting in the race for which it was entered.

The reason for qualification at entry time is, because in the past, horses have not been qualified at entry and couldn't get qualified in time to start and then were scratched (some with no penalty). This allowed a trainer to control (fix) races to allow a short field (by keeping other horses out) or they were hoping to get the following required approvals before the start of a race:

1. Get a required work before starting.

2. Get a tattoo before starting.

3. Get a gate card (signifying that the horse has been properly schooled from the starting gate) before it is eligible to race.

(Remember, most of the time there is only one day between entry and the start.)

Note: You now can delete old rule 39.1.f.

Don't delete old rule 39.1.e Maidens

Note: I believe you have got to note something in the rules to allow maidens to race in West Virginia.

August 13th, 2012

Jon Amores
 Executive Director
 West Virginia Racing Commission
 900 Pennsylvania Avenue, Suite 533
 Charleston, WV 25302

TB034

The Jockey Club



Received 08/13/2012 0905

Dear Jon Amores;

We support the proposed amendments to 178 CSR 1 of the West Virginia Racing Commission (WVRC) that were published for comment in their entirety at <http://www.racing.wv.gov/SiteCollectionDocuments/Rules/2012/178%20CSR%201%2007122012.pdf> on July 12, 2012 and include among others:

- Amendments to the Non-Steroidal Anti-Inflammatory Drug (NSAID) provision of the rule to lower the acceptable threshold for phenylbutazone in horses from five micrograms per milliliter of serum or plasma to two micrograms per milliliter of serum or plasma. These amendments make West Virginia's rule in conformance with the RCI Model Rule.
- An amendment to the rule to require that horses that are potential starters in a race be on racetrack grounds for pre-race examination by a State Veterinarian at least four hours before post time of the race in which the horse is scheduled to start.
- Amendments to Table E of the Rule, Penalty Guidelines for Violations of Medication and Prohibited Substances Rule, to increase the penalties to match those set forth in the RCI Model Rule.
- Amendments to the rule to eliminate the use of adjunct bleeder medications in horses on race day to conform with the RCI Model Rule.

We believe the proposed amendments will protect the welfare and safety of all racing participants.

Signed:

<u>First Name</u>	<u>Last Name</u>	<u>City</u>	<u>State or Province</u>	<u>Country</u>
Pamela	Abbott	Bonnors Ferry	ID	US
Tod	Adamson	Boyce	VA	US

Sal	Agro	Buffalo	NY	US
Thomas	Akins	Parkville	MD	US
John	Alioto	St. Helena	CA	US
Ms	Allison	NY	NY	US
Olivia	Austen	Redwood City	CA	US
Karen	Bailey	Hot Springs	AR	US
Susan	Bare	Washington	DC	US
Darnell	Barsness	Hastings	MN	US
Wanda	Bastert	Louisville	KY	US
Beth	Bell	Lexington	KY	US
Michelle	Benes	Sylmar	CA	US
Linda	Berd	Magdalena	NM	US
Kathleen	Berkey	Etowah	NC	US
Peter	Bloom	Farmington	CT	US
Lynne	Boeckelmann	Grantville	PA	US
Cathy	Bon	Fairfax	CA	US
Miguel	Bonifaz	Lima	Peru	Peru
Debbie	Bonnet	Miami	FL	US
Johanna	Bouchard	Waterville	ME	US
Virginia	Bregman	Ocala	FL	US
Lawrence	Bretzing	New Port Richey	FL	US
Sharon	Brophy	Peekskill	NY	US
Rob	Burns	Phoenix	AZ	US
Regina	Cappelletti	Canton	MI	US

Beatrice	Caulier Eimbcke	Cynthiana	KY	US
John	Chaussee	Dallas	TX	US
Gerry	Chesser	Versailles	KY	US
Alicia	Chittenden	Rancho Santa Fe	CA	US
Warren	Clark	Amarillo	TX	US
Kerinna	Coffey	Elmhurst	NY	US
Deborah	Conlee	Flagstaff	AZ	US
Niall	Connolly	Orlando	FL	US
Margaret	Cowan	Galena	MD	US
Lillian	Cushny	Lexington	KY	US
Shanna	Damien	Leesburg	FL	US
Caroline	Darst	Somerville	MA	US
Janet	Delcastillo	Winter Haven	FL	US
Pamela	Donehower	Middleburg	VA	US
Michele	Dutcher	Boring	OR	US
Sondra	Edwards	Brookeville	MD	US
Susan	Egerton	Harpers Ferry	WV	US
Tony	Feng	La Verne	CA	US
Patricia	Fiedler	Levittown	PA	US
Claire	Flewitt	San Lorenzo	CA	US
Ross	Fowler	Brooklyn	NY	US
Jennifer	Fretwell	Allison Park	PA	US
Deb	Fritzler	Amherst	VA	US

Deb	Fritzler	Amherst	VA	US
Cheryl	Gamboney	Arlington	VA	US
Sarah	Gibbs	Tigard	OR	US
Debra	Gilbert	San Diego	CA	US
Hermione	Gorney	Valparaiso	IN	US
Janet	Griffin	Bridgeville	CA	US
Carol	Grubb	Tucson	AZ	US
Anna	Gunther	Lexington	KY	US
Michael	Harris	St. Davids	PA	US
Beatrice	Heveran	Dalton	PA	US
Kevin	Hinckley	Port Saint Lucie	FL	US
Robert	Hirschle	Wayne	PA	US
Alannah	Holloway	Monrovia	CA	US
Heidi	Homze	Elizabeth	CO	US
Kim	Howell	Hemlock	MI	US
Karen	Hughes	Ventura	CA	US
Darlene	Jenkins	Pleasanton	CA	US
Sally	Jensen	Novato	CA	US
Cheryl	Johnson	Bedford	OH	US
Erin	Johnson	West Sacramento	CA	US
Fonda	Johnson	Birmingham	AL	US
Cathy	Jordan	Vacaville	CA	US
Soraya	JuarbeDiaz	Tampa	FL	US
Carole	Klumb	Eagle	WI	US

Linnell	Krikorian	Manchester	NH	US
Beth	L	Huntsville	AL	US
Bridget	L	JC	NY	US
Karine	Landers	Larkspur	CA	US
Angela	Langdon	Rockvale	TN	US
Dr. Ken	Lian	Agoura Hills	CA	US
Jamie	Lurtz	Anaheim	CA	US
Frank	Macauley	Madeira Beach	FL	US
Don	Martello	Columbus	NC	US
Patricia	Martin	Owensboro	KY	US
Denis	Massey	Edison	NJ	US
Kimberley	Maunder	Nairobi	Kenya	Kenya
Maureen	McCormick	Anna Maria	FL	US
Sharon	McKnight	Avonmore	PA	US
Debra	Medlock	Fall River Mills	CA	US
Rick	Mock	Hurst	TX	US
Jesse	Morris	Burbank	CA	US
Larry	Noble	Mercer Island	WA	US
Tamara	Nowicki	Woodstock	GA	US
Gina	Obrien	Bastrop	TX	US
Denise	OHara	Lake Como	NJ	US
William	Petersdorf	Farmingdale	NY	US
Leslie	Phelps	Ithaca	NY	US
Mary	Pilger	Clayville	NY	US

Harry	Pinand	Rockaway	NJ	US
Bob	Pippin	Victor	NY	US
Lynn	Pleggenkuhle	Hawkeye	IA	US
Albert	Polk, DVM	Burt Lake	MI	US
Warren	Potts	Martinsburg	WV	US
Gina	Powell	Buckeye Lake	OH	US
Margarette	Purdy	Apple Valley	CA	US
Dale	Quinn	Saskatoon	SK	CA
James	Redhead	San Diego	CA	US
Linda	Redman	West Hollywood	CA	US
Anthony	Regalbuto	Philadelphia	PA	US
Marion	Richardson	Fairfax	VA	US
Elizabeth	Ripperda	Sacramento	CA	US
Rebecca	Rosen	Monrovia	CA	US
Lesley	Ross	Southgate	KY	US
Anne	Russek	Natural Bridge	VA	US
Rosemary	Sabol	Elizabeth	PA	US
Alice	Schick	Novato	CA	US
Kristine	Schweinsberg	Brooklyn	NY	US
Mary	Scollin	Saranac Lake	NY	US
Richard	Seale	St Philip	New Zealand	New Zealand
Sue	Sefscik	Dunnellon	FL	US
Elizabeth	Shaw	Arlington	VA	US

Holly	Skeen	Glendale	AZ	US
James	Smoot	Charles Town	WV	US
Renee	Snyder	Martinsburg	WV	US
Glenn	Sorino	Brooklyn	NY	US
Nancy	Spence	Bronx	NY	US
Deborah	Spencer	Billerica	MA	US
Joanne	Spencer	Belfast	ME	US
Jake	Spidle	Albuquerque	NM	US
Andrew	Spitalny	Phoenix	AZ	US
John	Stewart	Everett	MA	US
Judith	Stock	Goshen	VA	US
Jessica	Struth	Bowling Green	OH	US
Jessica	Struth	Bowling Green	OH	US
Sharon	Talbot	Edmonton	AB	CA
Christy	Tate	Bridgeport	WV	US
Wendy	Taylor	Plano	TX	US
John	Thomas	Blackshear	GA	US
Maureen	Tierney	Harned	KY	US
Frances	Tilton	Cleveland	TX	US
Mary	Tolmie	Stockton	NJ	US
Eileen	Tonzi	Galt	CA	US
Barbara	Van Tuyl	Ocala	FL	US
David	Vargas	Boynton Beach	FL	US
Lisa	Vitelli	Pottstown	PA	US

Pamela	Wagner	Carmel by the Sea	CA	US
Lisa	Wallace	Hesperia	MI	US
Myles	Walshe	Waterford	Ireland	Ireland
Lisa	Wanits	Ballston Spa	NY	US
L Dianne	Weidner	Lexington	KY	US
Katherine	Wheeler	Baton Rouge	LA	US
Jean	Whipple	Columbus	OH	US
Judy	Williams	Caliente	CA	US
JoAnna	Zumwalt	Sacramento	CA	US

TRISTATE VETERINARY ASSOCIATES, PLLC

PO Box 99, Ranson, WV 25438-0099

Office Phone: 304-724-7250

Office Fax: 304-724-7252

Email: tristatevetwv@gmail.com

Noel F. Henderson, DVM
304-886-5700

Sean K. Saltsburg, VMD
304-886-5708

Fax

Attn Chris

To: WV Racing Commission

From: TRISTATE VETERINARY ASSOCIATES

Fax: 304-558-6319

Pages: (including cover page) 5

Phone: 304-558-2150

Date: 8/13/12

Re: Proposal

cc:

- Urgent
 For Review
 Please Comment
 Please Reply

Comments: Thoroughbred Racing 178 CSR 1

TB035

Tristate Veterinary A:



Received 08/13/2012 0914

Tristate Veterinary Associates PLLC

P.O. Box 99, Ranson, WV, 25438

304 724-7250

To: West Virginia Racing Commission

Re: Amendment to eliminate the use of adjunct bleeder medication on race day

From: Noel F. Henderson, DVM, owner

I am writing this letter in the hope that due consideration has been given to the extremely damaging effects this proposed amendment will have on WV racing. In the hope that our government is aware of what we are, where we get our product, has a working knowledge of the medications involved, and the effect of this on our business, I am going to bring forth my perceptions of what this useless and ill-informed legislation will do.

What We Are

WV Racing is an industry like any other, providing jobs for thousands, both directly at the track, and numerous other (primarily agricultural) off track areas of commerce. We are facing competition from other racing jurisdictions, and the recent developments in MD have made them our toughest competitor. Like any business, it is vital that we provide an attractive atmosphere in order to continue to supply product to the gambling public. That product ideally should be full fields for the full card on a nightly basis. Adjunct medication allows for us to provide trainers to protect their horses from bleeding, losing them would force trainers to look elsewhere to run.

Why are we following the path laid down by Delaware and Pennsylvania? Both are venues that are losing money, Delaware might not even be here next year. Our handle is going up, we are filling races, so why are we trying to change something that is not broken? Why are we not following Maryland's lead? They have survived without the benefit of casinos for so long that they know how to make racing in their venue as attractive as possible to trainers. Are we really benefitting our racing industry by banning drugs that only keep a horse from bleeding?

Where We Get Our Product

Trainers are the sole source of horses running at Charles Town, and it is their perception of how their horse will run here that dictates whether or not he/she will utilize our facility. The backstretch at Charles Town only holds 1,000 horses at best, therefore we are reliant upon the receiving barn being filled in order to run our allotted days of racing and filling the card. Our specialty is the 4 1/2 furlong sprint, not offered by any other venue in the mid-atlantic region. The perception that our races fill with sore horses that can not compete at other venues is false, this distance offers horses with air problems (primarily BLEEDING) the opportunity to run without any ill affects.

Trainers don't care what studies say about adjunct bleeder medications, a trainer believes what they see in their horse. For example, a horse works a half mile 2 weeks ago with 3cc of lasix. The horse is scoped after and the horse bled a 2 out of 10. A week later, the same horse works a half mile, this time treated with 3cc of lasix and kentucky red. Scoping shows the horse did not bleed. The trainer is now aware of what the horse needs to be able to run and not bleed. The horse will be entered at a venue where the proper medication can be applied. This will inevitably be MD, where they will have to run a furlong farther, but the purses are better than ours and they can treat the horses to protect them from bleeding.

I have worked in MD, and currently work a day or 2 a week at Penn Natl racetrack. I always treat horses that are running in CT due to the fact that the distance is short and the horses can be treated for bleeding. The per diem losses of horses running in CT would be huge if this rule was enforced. As I have said, we rely on a full receiving barn to fill races, and the loss of these medications would make a lot of trainers look elsewhere to run their horses. How many horses a day can WV afford to lose? Can WV racing sustain even a 10% drop in gambling revenue brought upon them by shorter fields?

What Do These Medications Do?

All these medications do one thing, they reduce the chance of exercise induced pulmonary hemorrhage. That's it, no other benefits, they just stop bleeding. Why is the racing commission worried about these meds?? No performance improvement is noted, they have no ill side effects, and the horse is healthier with no ruptured blood vessels. To ban a path that actually helps our equine athletes seems to me to be both ignorant and cruel. How the wave of banning this class of drugs started is beyond me, it's a cheap easy fix to a very common problem in our horses. Banning these drugs is both ignorant and mis-informed, and how this trend has been allowed to carry on is beyond me.

My Business

As a WV small business, I would see a drop in revenue of about 15%, as would the other veterinary practices that work in the panhandle area. At last estimate, approximately 70% of my revenue comes from out of state. I only use WV banking, insurance companies, garages for my fleet, local restaurants, storage, etc. I will have to lay off a staff member, and overall disbursement of funds to all these businesses in the panhandle would drop accordingly. Why is my government doing this to my business? A lot of the previous changes in drug policy made sense. Getting rid of anabolics and setting the bute level to 2mg/ml are good amendments, anabolics have no place in competition and bute is too strong a painkiller. But to lose this income on drugs that only protect a horse from bleeding??? I can find no sense in this.

A handwritten signature in black ink, appearing to read "Noel F. Henderson". The signature is somewhat stylized and overlaps the text below it.

Noel F. Henderson, DVM

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**
Form #2

Do Not Mark In This Box
FILED
2012 JUL 11 PM 8:23
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: WV Code 19-23-2(a), 19-23-3(17), 19-23-6,
19-23-8, 19-23-9, 19-23-13, 19-23-13b, 19-23-15

AMENDMENT TO AN EXISTING RULE: YES 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: _____

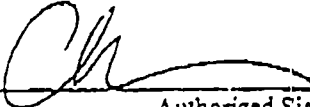
TITLE OF RULE BEING PROPOSED: _____

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 August 13, 2012 AT 5:00 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

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

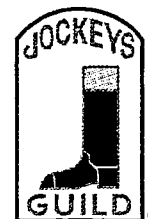
THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

Legislative Secretary


Authorized Signature

ATTACH A BRIEF SUMMARY OF YOUR PROPOSAL

West Virginia Racing Commission



WVRC 13AUG'12 AND 1:45

August 13, 2012

Jon Amores, Executive Director
West Virginia Racing Commission

It has been my pleasure to be a part of the WV Rules Committee and work with other appointed individuals to amend and develop rules that will shape the future of horse racing in the state of West Virginia. A rule passed in a prior review process that amended the age requirement of all licensees to 18 years of age was brought up for review again. The committee's decision was split and therefore left as previously amended. This letter is in support of amending the current rule to allow individuals 16 years of age to once again be licensed in certain capacities. I am in support of the minimum age for jockeys and trainers being 18, but other licensees should be allowed to obtain a license at 16 years of age. Individuals in this age group are some of the best and most reliable workforce on the backside and are more than capable and competent to perform the duties asked of them without putting themselves or others at risk.

Individuals involved in horse racing, especially jockeys and exercise riders, have often grown up on farms or around horses and are more than ready to safely offer their services at the age of 16. While I understand the concerns of tracks and don't argue against not licensing jockeys and trainers until they are 18, I think it is important to allow capable riders and others the opportunity to enhance their riding skills and horsemanship while adjusting to the backside environment. Emphasis when licensing should be more on past experience and capability than on age. Applications for certain licenses should be accepted from 16 year olds and sent to the stewards for approval with certain criteria that must be met before approval.

I feel the best rule with regards to age for jockeys would allow an individual to be licensed at 16 as an exercise rider to gain knowledge of the backside and develop their skills prior to being issued a jockey's license at 18. This two year period allows the young riders to complete high school and it also allows them extra time to make sure their body can meet the weight requirements necessary to maintain a career as a jockey all while developing the riding skills and social skills needed to survive on the backside and in the community. This two-year period from 16 to 18 is an important developmental phase for the future jockeys of West Virginia.

Having spent my entire life on the backside I am well aware of the duties that need to be performed during training and racing and the potential hazards that can be encountered through working with animals and others. These situations are no different from others 16 year olds encounter off racetrack property. Additionally, this group strengthens the workforce and allows trainers to hire individuals who are eager to work and learn. We should allow them to work, learn and enhance our racing community.

Sincerely,

Jeff Johnston
Regional Manager, The Jockeys' Guild

TB036

Jeff Johnston

Received 08/13/2012 1145



Robert T Bedner- 1st VP
Philip Heidenreich-2nd VP

John W. Baird
President

Jana Tetrault
Executive Director



Mountaineer Park Horsemen's Benevolent and Protective Association

OWNER DIRECTORS

Robert T. Bedner
John Donofrio
Janice Hanna
Jeannette McIntosh
Theresia Mahan

TRAINER DIRECTORS

Bart Baird
Philip Heidenreich
Douglas Johnson
Douglas E. Shanyfelt
J. Edwin Shilling

July 16, 2012

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

TB037

John W. Baird

Received 08/10/2012 0915



Dear Commissioners,

We are writing in support of keeping the phenylbutazone (bute) level at five micrograms per milliliter as opposed to lowering it to two micrograms per milliliter and we are opposed to eliminating the adjunct bleeder medications

Phenylbutazone is a non-steroidal anti-inflammatory medication that is used much like ibuprofen. This is given to equine athletes prior to a race just as human athletes routinely take ibuprofen prior to participating in an athletic event. It does not mask pain to the extent that has been reported, it merely takes away minor inflammation aiding in the equine athletes recovery from a race or workout.

Our equine athletes routinely suffer from EIPH or exercise induced pulmonary hemorrhage. Adjunct medications that are being eliminated work in conjunction with Salix and often allow veterinarians to give lower doses of Salix. In our region horses often suffer from respiratory problems and these medications are not performance enhancing on any level, but allow us to further help horses who suffer from this condition.

Sincerely,

John W. Baird
President
Mountaineer HBPA

Philip Heidenreich
Vice President
Mountaineer HBPA

Name:

Address:

Julie Schen	Lisbon Ohio
Steve Kuyfack	New Cumberland W. Va
George Lindberg	East Palestine Ohio
William Sanders	Newell WV
Donna Zink	New Cumberland WV
William & McFadden	New Cumberland WV
Sam	Chester, WV
Jackie Eaton	Toronto OH
Anthony Rizzo	Newell, W. Va.
Mark Koencigberg	New Cumberland, WV
Larry W. Zardo Jr.	Lisbon OH
Larry W. Harris	Atwater OH
Rebecca Demont	Atwater, OH
Virginia Demont	Utonia, Oh.
Sarah Roke	MOWACA, PA.
Ken Winger	East Liverpool, OH
John	Wellsville PA
Franklin Brinkley	Lisbon Ohio
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Lu R. Borgeman	
Dave Thompson	2334 New York Richmond TN ⁴⁷³⁷⁹
Bob Salway	Newell WV
Joe A. Joyce	East Liverpool, Oh.
Tom	New Cumberland W.
Eric	Columbus, OH
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Vin	Salem Ohio.
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John Capelin	Newell WV
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Ed Schuster	54 Arner Rd	Chester WV
Ken Miller	crum train	
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Kim S. Ryan	531 Grand St	Newell, WV 26050
Donald Hellar	PO Box 294	Newell WV 26050
Bart Baird	2239 E St.	New Cumberland, WV 26050
Carol & Clapp	920 E Main St	Parry Pa 16407
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Dan Miller	14950 Sprucevale	Eliverpool OH
Antonio Pizzuro	owner/trainer	New Cumberland
Jennifer Johnston		Newell, WV
Rachel Patton		New Cumberland WV
Lera Patton	"	" " "
Sue Patton	"	" " "
DAN Hamilton		New Cumberland WV
Donnie Blum	5541 W. 1st Ave	Newport, OH
Lucy Simon	123 Wales St	Newell
Shanty Edzell	"	#2 "
Doug Johnson	2618 Lyntz Rd	Lordetown, OH
William Mart	995 Congo	ARKLA RD WV
Robert P. Boris		Chester WVA
Ala Crago		New Cumberland WV
Ed Miller		Chester WV
Ed Miller		ROBERS. OH
Kitty Dehart		New Cumberland, WV
Tom Booker		EAST LINE RD OH
Theresia Mahan		Peninsula, Ohio
Suey Clark		Ocala, FL
Ricardo Hernandez		East Liverpool Ohio
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J. Edwin Mallory	Newell W.V.
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Brent Angelle	Clinton, Pa
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Jacquette Mahntash	C. Liverpool Ohio
Robert Wright	Petersburg, OH
	Thiles, Ohio

Robert T Bedner- 1st VP
Philip Heidenreich-2nd VP

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President

Jana Tetrault
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Mountaineer Park Horsemen's Benevolent and Protective Association

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J. Edwin Shilling

TB038

John W. Baird



Received 08/10/2012 0915

July 16, 2012

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

Dear Commissioners,

We are writing regarding a proposed change to the West Virginia Racing Commission's Rules of Racing. They are proposing an amendment to 178-1-24.11 which adds grounds for denial or discipline of a permit to include the following (a) knowingly, or without conducting proper due diligence, sells a horse for slaughter, directly or indirectly. (b) has abandoned, mistreated, abused, neglected, or engaged in any act of cruelty to a horse. While we are completely in favor of (b) we are strongly opposed to (a).

The Mountaineer Park Horsemen's Benevolent Association supports efforts to educate horsemen about programs that provide second careers for ex-racehorses. We have a strong Canter program that we promote throughout our association. Canter has listed 158 horses for placement in second career homes since the summer of 2011. In addition, many horses are placed or sold to second career homes independently.

Our owners and trainers have a passion and a love for the horses under their care. Yet the reality is that not all horses are mentally or physically suitable for a second career. We feel that this proposed rule will prohibit horsemen from doing something that is legal in the United States of American and it violates our constitutional rights. It is legal to purchase and sell horses in the United States at a public auction. Many horses sold at these auctions are in fact sold as riding horses. As horsemen, once our horses are sold regardless of how they are sold we have no control as to what happens to them after they leave our care.

This is a major issue that will prove to be difficult if this proposal is passed into law. Once a trainer sells a horse, how can they be responsible for what happens to that horse down the road? They may sell or give the horse to someone who plans on keeping the horse and promises a good home. The horse may prove to be unsuitable and they may give the horse away and it may eventually end up at a slaughter plant. How is the West Virginia Racing Commission going to protect the owners and trainers from penalties, and more importantly how do the owners and trainers protect themselves from penalties that are out of their control?

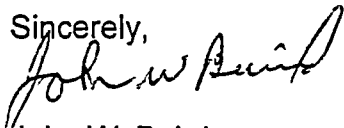
According to the United States Department of Agriculture horses are classified as livestock. By definition, most livestock are ultimately intended for slaughter. While that is not our intention as owners and trainers, it is the reality that this may ultimately be the case. On November 18 President Obama signed into law a spending bill that restores the American horse slaughter industry. According to the Government Accountability Office the previous ban had a slew of unintended consequences. According to recent statistics more horses were left abandoned when owners could no longer afford to keep them or use them. The Government Accountability Office released a report in June that said the ban depressed prices for horses in the U.S. and led to a surge in reports of neglect or abuse as owners of older horses had no way of disposal.

The horse community has seen the results of these laws. We have heard stories and seen cases of abused and neglected horses. Why, because the owners have not had the financial resources to care for them. Isn't a painless death more ethical than a slow death which includes neglect and starvation? Who is going to take care of these horses?


According to an article in *The Washington Times* "While we have a long way to go, responsible processing represents a vital first step in reversing the unintended consequences to blame for the dismal state of neglected horses and their frustrated caregivers across the country," said Rep. Adrian Smith, a Nebraska Republican who fought for the change. "Reinstating a humane, accountable and legal management tool is good for horses, good for owners and is good policy."

We will continue to support programs that place ex-racehorses in homes that enable them to have a second career. However, we are strongly opposed to a law that would penalize owners and trainers if their horses are ultimately sold in a manner deemed legal by the United States government.

Sincerely,



John W. Baird
President
Mountaineer HBPA



Philip Heidenreich
Vice President
Mountaineer HBPA

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Richard J. Outten		New Cumberland, W.V.
Tom Patton		" " "
Steve Patton		" " "
Donna		New Cumberland WV
Doris Beatty		New Cumberland WV
Tom Kuhn		
Young Johnson	2618 Lyntz Rd	Lordsburg, Oh
Wanda Mart	995 Coargo	Altoona - W
Robert P. Boris		Chester WV
Ala Crogo		New Cumberland
Tom		Chester WV
Eric		Robels Ohio
Kitty Albert		New Cumberland WV
Don Sproull		EAST LIVEN Pcc OHIO
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Ernie Zink	New Cumberland WV
William C. McFadden	New Cumberland WV
Ernesto Powell	Elwood Ohio
J. M. S.	Chester WV
Jackie Erler	Toronto OH
Anthony Lizzo	Newell W. Va
Mike G. King	New Cumberland, WV
Larry W. Haffis, Jr.	Lisbon Oh
Larry W. Harris	Atwater, Oh
Rebecca Demery	Atwater, Oh
Virginia Demery	Leetonia, Oh
William Demery	Monaca, PA
Dyn Wright	East Liverpool, OH
Joe Kelly	Wellsville, Oh
Franklin Brinkley	Lisbon Ohio
Rachel Lyon	
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Erica Fries	Columbiana, OH
Wallace A. Justice	New Cumberland WVA
Karen Chapman	Salem Ohio
Ann R. Huff	
John Capelloni	Newell, WV
Mike [unclear]	Newell, WV
Johnna Smetanko	" "

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Carrington Ohio

Lori Cozzisello

Salisbury, Ohio

~~E. Williams~~
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Wendy Wright

E. Liverpool Ohio

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October 23, 2011

Slaughter of Horses Goes On, Just Not in U.S.

By A.G. SULZBERGER

LINCOLN, Neb. — The closing of the country's last meat processing plant that slaughtered horses for human consumption was hailed as a victory for equine welfare. But five years later just as many American horses are destined for dinner plates to satisfy the still robust appetites for their meat in Europe and Asia.

Now they are carved into tartare de cheval or basashi sashimi in Mexico and Canada.

That shift is one of the many unintended consequences of a de facto federal ban on horse slaughter, according to a recent federal government study. As the domestic market for unwanted horses shrinks, more are being neglected and abandoned, and roughly the same number — nearly 140,000 a year — are being killed after a sometimes grueling journey across the border.

"When they closed the plants, that put more of a hardship on our horses than the people who wanted to stop the slaughter can imagine," said John Schoneberg, a Nebraska horse breeder who recently took in three horses from a nearby farmer who said that he was unable to pay for feed and would otherwise turn them loose.

The study's findings have been fiercely contested by animal welfare groups, which argue that most of the problems stem from the economic downturn and the high price of feed. The study also breathed new life into the long-smoldering battle over whether to allow the resumption of domestic horse slaughter or, alternatively, to prohibit the animals from being shipped abroad for their meat.

In recent weeks lawmakers have pushed Congress to take action in both directions. The Government Accountability Office, which conducted the study, concluded that either option would be better than the status quo, but advocates on both sides, while hopeful, said a resolution did not appear imminent.

“It’s just a hot political issue,” said Dr. Whitney Miller, a lobbyist for the American Veterinary Medical Association, which supports allowing horse slaughter. “It’s hard to see something definitive happening.”

The effect of the standoff has been deeply felt in rural states like Nebraska. Horse breeders and the owners of livestock auctions say that eliminating slaughter basically removed the floor for horse prices, allowing the market to collapse and forcing many out of the business. One reason, they say, is that owners are now forced to pay hundreds of dollars to euthanize and dispose of unwanted horses when they used to receive about that much to sell them to slaughterhouses.

This year, Nebraska became one of a number of states — along with Arkansas, Montana, North Dakota and others — that have pushed to resuscitate the dormant horse slaughter industry, which produced meat valued at an estimated \$65 million a year before closing. Gov. Dave Heineman of Nebraska, a Republican, signed a law to take steps to regulate horsemeat at the state level that passed the single-chamber legislature, the Unicameral, with only one dissenting vote.

These efforts have been fiercely opposed by animal rights groups, which rejected as ridiculous the argument that horses would be better off if they could be killed for meat. Pointing to their own research, they say any increase in improper care for horses can be connected to the economy, rather than to the elimination of slaughter. And if prices have declined, they say, that is because the ban removed an incentive to overbreed horses.

Wayne Pacelle, the president and chief executive of the Humane Society of the United States, said that horse owners should commit to providing lifetime care for the animals. He said surveys had found widespread opposition to killing horses for their meat.

“Horses are different than cows and pigs in one very important sense, in that they are not raised for slaughter,” he said.

But there is an enduring chasm in how horses are viewed.

“A horse, to me, is a livestock animal like a cow, sheep or a goat,” said Orbie Bonnett, a Nebraska rancher who stopped selling horses after prices plummeted. “A lot of folks nowadays look at a horse like a pet, like a dog or a cat. When you have a lot of money folk looking at this that way, well, there goes your slaughterhouses, there goes your market and there goes your horse folk — they just can’t make it anymore.”

The United States, much of it settled on horseback, has never really taken to eating horse meat in times of need. But elsewhere, the meat — lean and protein-rich — is prized as a delicacy. Selling to a slaughterhouse has long been a way to make some money, to get rid of an old or unwanted horse no longer able to perform at a racetrack, show ring or ranch.

The last slaughterhouses for horses, in Texas and Illinois, closed after Congress stripped financing for federal inspections of horse slaughter in 2006, a move that effectively banned the sale of the meat. That year, only 105,000 horses were slaughtered domestically; 33,000 from the United States were slaughtered abroad. Last year, 138,000 or more were slaughtered abroad, according to government figures. (The population of horses in the United States is about nine million.)

“It’s slightly hypocritical to allow these horses to be slaughtered anyway up in Canada or Mexico and not allow people here to get the income or serve the meat,” said Hugue Dufour, a chef in New York who cooked horse while working in Canada.

Now owners have to pay to get rid of horses. Debby Brehm, director of the Nebraska Quarter Horse Association, spent \$200 last month to euthanize a sick horse and \$150 more for it to be hauled to a rendering plant. Other owners keep them but are unable to bear the thousands of dollars a year it can cost to feed and care for them. As a result, the sight of malnourished animals is familiar, Ms. Brehm said, and stories abound of horses abandoned on public and private land and even, in one audacious case, in someone else’s horse trailer.

“You see a lot of malnourished and abandoned horses that probably would have been humanely slaughtered before,” said Windy Allen, a horse trainer in the state.

Others say the ban is costing them money, too.

The Southeast Nebraska Livestock Auction used to sell about 100 horses every month, but now that may be the total for a year, said Dale Steinhoff, the owner. At Central Nebraska Packing, which used to slaughter horses but now buys more than one million pounds of horsemeat a year for sale to zoos, the meat is far more expensive when imported from Canada, said Lloyd Woodward, general manager.

And, even as they pay less, those who buy the animals for slaughter — a group known as “kill buyers” — say they are struggling to cover their costs.

“The Mexicans are getting rich off us,” said Derry Mayfield, who buys about 40 horses a month and sometimes has them given to him for no cost. “They’re buying these horses cheap because they can. We have no other options.”

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Obama, Congress restore horse-slaughter industry

By [Stephen Dinan](#)

The Washington Times

Wednesday, November 30, 2011

President Obama last month quietly signed into law a spending bill that restores the American horse-slaughter industry, just a few months after a government investigation said the ban on slaughtering was backfiring.

The domestic ban didn't end horse slaughter but instead shifted the site of butchery to Mexico and Canada - which meant increased abuse or neglect as the horses were shipped out of the country and beyond the reach of U.S. law.

The ban had been imposed in 2006 when Congress defunded the government's ability to inspect plants that butchered horses for consumption. Without inspections, the meat couldn't be sold, and the industry withered.

But the Agriculture spending bill Mr. Obama signed the week before Thanksgiving dropped the prohibition on inspections, and the administration said it now stands ready to conduct them should anyone open a horse-slaughter plant.

"While we have a long way to go, responsible processing represents a vital first step in reversing the unintended consequences to blame for the dismal state of neglected horses and their frustrated caregivers across our country," said Rep. Adrian Smith, a Nebraska Republican who fought for the change. "Reinstating a humane, accountable and legal management tool is good for horses, good for owners and is good policy."

All sides agreed that the backdoor ban was a failure.

A June report by the Government Accountability Office, Congress' chief investigative branch, said the ban depressed prices for horses in the U.S. and led to a surge in reports of neglect or abuse as owners of older horses had no way of disposing of them, short of selling them to "foreign slaughtering facilities where U.S. humane slaughtering protections do not apply."

In unusually blunt language, GAO suggested that Congress and Mr. Obama revisit the ban.

The options facing Congress were to further ban the export of horses for slaughter or lift the domestic slaughter ban. Congress chose the latter.

The move got a tepid stamp of approval from People for the Ethical Treatment of Animals, which said it had always been worried about the way Congress went about its initial ban. PETA said it predicted that horses would be shipped to foreign slaughterhouses.

"A law doesn't change what's in people's hearts, and if business people view horses as commodities, ignoring their sensitive natures in favor of the few dollars that their flesh might bring, the horses were sunk from the start," said David Perle, a spokesman for the group. "To reduce suffering, there should be a ban on the export of live horses, even if that means opening slaughterhouses in the U.S. again. But the better option is to ban slaughter in the U.S. and ban the export of live horses so that no one is slaughtering America's horses."

Horse meat is regularly used for consumption by circuses and zoos, and it is now sent to countries in the Eastern Hemisphere where it is an accepted food. But slaughter has been a prickly issue in the U.S.

A bill to ban horse slaughter and export of horses for slaughter has been introduced in the House and Senate, and the Humane Society of the United States said it would redouble its efforts to try to enact that legislation.

In the meantime, the Agriculture Department's Food Safety and Inspection Service said there are no horse slaughterhouses operating in the U.S. that produce meat for human consumption, but the agency would be ready for inspections if a facility opens.

Another factor is that many states have laws banning horse slaughter.

Michael Markarian, who oversees the Humane Society Legislative Fund, which lobbies for animal protections, said any state that allows a horse-slaughter plant to open will face pressure.

"People will not be happy about their community potentially bringing in one of these plants," he said. "Americans don't eat horses, and don't want them butchered and shrink-wrapped and sent to France or Japan as a delicacy."

In 2010, about 138,000 horses were exported for slaughter, and another 30,000 horses were shipped for other purposes, though some of those likely were sent to feedlots to be fattened for slaughter.

Congress never banned horse slaughter outright, but gave inspection powers to the Agriculture Department in 1996. In 2006, it voted to halt federal inspections, which essentially ended the industry.

This year, the House version of the Agriculture spending bill maintained the slaughter-ban language, but the Senate did not. When the two chambers reconciled their bills, the language was not in the final version.

Mr. Obama signed the spending bill by autopen on Nov. 18. He was traveling in Asia at the time the bill was presented to him, so he used the automated signature machine for the second time in his presidency.



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By Colleen Curry

Nov 30, 2011 5:50pm

Horse Slaughterhouses May Reopen After Five Year Ban

51 | Test |

Horses can now legally be butchered for human consumption in the U.S. after Congress lifted a ban on funding horse processing inspections this month.

The measure was part of an agriculture spending bill President Obama signed on Nov. 18, reversing the 2006 decision by Congress to defund horse meat inspections.

The likelihood of Americans dining on horses, however is slight since there is no culture of eating horse meat in this country, they are revered as pets and many states have strict controls on horse meat. California and Illinois have laws banning the consumption of horse meat.

The meat, however, could be exported to Europe and Asia.

Animal welfare advocates pushed for the ban when it passed five years ago, but horse industry advocates and the Government Accountability Office say the ban had a slew of unintended consequences: More horses were left abandoned when owners could no longer afford to keep them or use them for work; owners who wanted to sell their horses for slaughter were forced to have them shipped to Canada or Mexico, where slaughtering is legal; and horse prices became depressed in the United States, according to a report released by the GOA in June.

The last horse slaughterhouse in America closed in 2007 in Illinois, just months before the economic recession hit the country, according to the Associated Press. In the years since, horse abandonment and export has grown significantly, according to the GAO report.



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In Colorado, for example, data showed that investigations for horse neglect and abuse increased more than 60 percent, from 975 in 2005 to almost 1,600 in 2009, the report said.

According to one advocate, the ban also forced the bottom to drop out of the horse industry entirely.

"It's basic economics," said David Duquette, president of United Horsemen, which advocated for lifting the ban. "Horses used to be a \$102 billion a year industry, with at least 500,000 direct jobs in horse industry. That's been cut in half."

The ban was lifted quietly in this year's agriculture spending bill. The Senate, breaking with the past five years of agriculture bills, did not include language on continuing the ban in their version of the bill. They attributed their decision to the GAO report, according to a Senate Appropriations Committee spokesman.

The House, as in previous years, did include the language to continue the ban. When lawmakers reconciled the two bills, the ban was not included.

One supporter of the bill, Rep. Adrian Smith, R-Nebraska, said the ban was bad policy.

"While we have a long way to go, responsible processing represents a vital first step in reversing the unintended consequences to blame for the dismal state of neglected horses and their frustrated caregivers across our country," Smith said in a statement. "Reinstating a humane, accountable, and legal management tool is good for horses, good for owners, and is good policy."

Now, advocates say that the \$62 million-a-year slaughter industry could be back up and running in as little as 30 to 90 days.

"There are people from North Carolina all the way out West that are wanting to set up a (slaughter) plant or invest in a plant," Duquette said. "There's a tremendous amount of desire to get it going."

Opponents of the measure say that they will fight any meat processing plants that open in the coming months.

"If plants open up in Oklahoma or Nebraska, you'll see controversy, litigation, legislative action and basically a very inhospitable environment to operate," Wayne Pacelle, president and chief executive of The Humane Society of the United States, told the Associated Press. "Local opposition will emerge and you'll have tremendous controversy over slaughtering Trigger and Mr. Ed."

The USDA issued a statement Tuesday saying there are no slaughterhouses in the U.S. that butcher horses for human consumption now, but if one were to open, it would conduct inspections to make sure federal laws were being followed. USDA spokesman Neil Gaffney declined to answer questions beyond what was in the statement.

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U.S. HORSE SLAUGHTER CLEARED TO RESUME

Horse slaughter, effectively outlawed in the U.S. in 2007, has been cleared to legally resume with the backing of one of its foremost critics: People for the Ethical Treatment of Animals (PETA).

The bill, passed by Congress and signed by President Obama on November 18, will allow slaughterhouses to resume operations in states that don't expressly prohibit them.

Although not deemed federally illegal, commercial horse slaughter had been eradicated by a 2006 provision that prohibited federal funds for required inspections.

PETA president Ingrid Newkirk drew attention by backing the newly passed legislation, saying that horse suffering has worsened since the last states (Texas and Illinois) closed their slaughterhouses.

A congressionally mandated Government Accountability Office study concluded that 138,000 slaughter-bound horses were exported to Canada and Mexico in 2010, about the same number processed in the U.S. before the practice ceased.

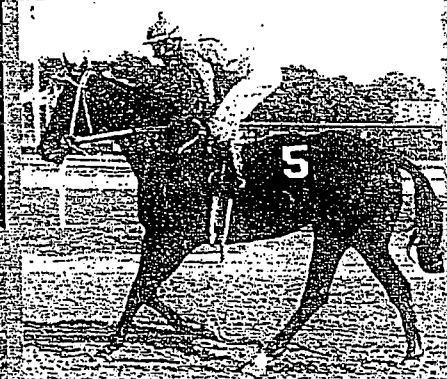
The United States has no means to safeguard the treatment of horses in other countries.

Selkirk said she'd prefer an end to horse-slaughter exporting altogether. Short of that, she added, horses moving to and through domestic facilities should be made to suffer less with proper safeguards in place.

The bill, however, does not specify federal allocations for inspections and other means of oversight.

According to reports, slaughterhouses in six or more southern and western states without expressed prohibitions were readying for business. But American Horse Council (AHC) president Jay Hickey questioned the practicality of slaughterhouse resumption given that the new law expires in September 2012 and could be revised. The AHC has been neutral on the horse-slaughter issue. Not so the American Society for the Protection of Cruelty to Animals, which called the legislation a "heartbreaking development."

CHARLES TOWN INDUCTS EIGHT INTO TRACK HALL OF FAME



Sam Huff and Carol Holden were among the human honorees while Coin Collector was one of two horses inducted into the Charles Town Hall of Fame's most recent class.

Charles Town Race Track inducted eight principals into its Hall of Fame on December 10.

The West Virginia track enshrined horsewoman and historian Ann Hilton, racing official Elwood Heironimus, West Virginia Breeders' Classics co-founders Sam Huff and Carol Holden, jockeys Larry Dupuy and Woody Kirk and horses Coin Collector and Miss Prime.

Human candidates were chosen in the categories of distinguished achievement, industry and jockey.

Charles Town resident Heironimus (industry) took a job on the backstretch in 1941, moved to the frontside in 1956 and became assistant racing secretary 10 years later. He served as racing secretary at Shenandoah Downs from 1969 to 1978, at Charles Town until 1984 and as racing steward until his retirement in the mid-1990s.

Hilton (industry), a longtime horse owner and race track liaison, served as president of the Charles Town Horsemen's Benevolent and Protective Association and created and expanded the track grandstands. Wall of Fame Hilton's father, trainer Jim Bell, ran a horse on Charles Town's inaugural card, December 2, 1933, and late husband Bobby Hilton trained more than 2,500 winners at Charles Town.

Huff and Holden (distinguished achievement) started the Breeders' Classics in 1987 with five races and since

have expanded it to a \$2-million, nine-race program. Huff, an NFL Hall of Famer, and Holden also co-host a weekly racing show on the Middleburg Broadcasting Network.

Larry Dupuy (jockey) diversified his accomplishments as a local wrestling hero by amassing 3,204 riding victories, several Charles Town titles and six Breeders' Classics triumphs in a career that spanned nearly 30 years. Dupuy hung up his tack in 2000 and now serves as a Charles Town state steward.

Woody Kirk (jockey), who died in 1959 at 43, rode his first winner at Charles Town in 1933 and earned acclaim as one of the region's top bulling riders over a 22-year career.

Coin Collector (1989, Weshaam-Dynamo Dotty, by Quartermaster) won the 1992 and 1993 West Virginia Breeders' Classic and finished third in the 1991 Saratoga Special G2. Owned and co-bred by John A.S. Casey and trained by James M. Casey, Coin Collector had a record of 43-12-5-5 and earnings of \$328,115.

Accomplished in ability and durability, Miss Prime (1944, Swashbuckler-Mashy, by Hlygro) won at least once every year from ages 2 to 7, finished 31 for 85, and earned 1950 acclaim by *Life* magazine as the "Citron" of the bush-league tracks. Trained by Babe Saportas, Miss Prime won 10 of 24 races in 1950 as a 6-year-old.

Robert T Bedner- 1st VP
Philip Heidenreich-2nd VP

John W. Baird
President

Jana Tetrault
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Mountaineer Park Horsemen's Benevolent and Protective Association

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July 16, 2012

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

Dear Commissioners,

It is the opinion of the Mountaineer HBPA that the age in which a child can be on the backside be lowered to 16. While we understand the concerns that we must emphasize the importance of education to our youth, our owners and trainers are emphatic that the age should be lowered to 16.

While it has been repeatedly stated that the commission is working to align West Virginia's Racing Rules with the ARCI Model Rules, this is a contradiction. According the ARCI-008-010 subsection D:

Age Requirement. Applicants for licensing shall be a minimum of 16 years of age unless otherwise specified in these rules. An applicant may be required to submit a certified copy of his/her birth certificate. Persons under the age of 18 may be required to show evidence of active participation in a certified educational program or have a high school diploma or equivalent.

Most people that are requesting that this age be reinstated are doing so for their children. Working alongside your parents in an agricultural related business has a long and proud history in our country. Many of our finest horsemen and women learned their trade working with their parents or relatives. It provides a means for students to work during the summer months in an environment supervised by their parents.

We are attracted to the racing industry based on a love and admiration for the horses under our care. Most young people who are interested in working on the backside truly love these animals. Our industry as a whole is comprised of people that learned about racing from the "backside" up. Not only did most trainers get their start working on the backside during their teenage years, but farriers, veterinarians, owners, stewards, racing officials and members of management also started as teenagers on the backside. This did not prohibit these people from furthering their education. In many instances, it provided the economic means to do so through industry scholarships and the opportunity to work and earn money for their education.

While your argument remains that these students should be in school, we would argue the ones that aren't in school, wouldn't be in school whether they were working on the backside or not. However, at least by working they are learning a skill that they can support themselves. As parents, we promote the value of education. At the same time, we realize the importance of traditional agricultural values that places a great deal of importance on creating a strong work ethic, developing a level of responsibility and contributing to the overall family unit.

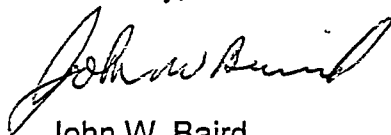
The HBPA is willing to do everything we can to promote the value of education. The National HBPA offers several scholarships to the children of backstretch workers. Many of our board members, trainers, owners and office staff worked as teenagers on the backside. We strongly feel that these experiences contributed to our own successes. By suggesting that this is not a valued experience, devalues our contribution to this industry.

According to the National HBPA we are the only state in the country that does not issue licenses to those under the age of 18. In fact, according to a chart on the Department of Labor's website most states allow children to work in agriculture before the age of 16. Why can't we consider a conditional license that is only valid after school hours which would allow them to work during the summer and on weekends?

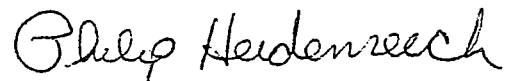
We strongly feel that this violates our ability to supervise and guide our children. We also feel it would have a negative financial impact, not only on the trainers and owners, but on our young people's ability to earn wages during the summer months.

Thank you for your consideration.

Sincerely,



John W. Baird
President
Mountaineer HBPA



Phillip Heidenreich
1st Vice President
Mountaineer HBPA

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Robin Mills	P.O. Box 784	IVC, WV 26047
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Donald Hodler	PO Box 294	Newell WV 26050
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Leroy Simon	" #2 "	
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Wm Zed

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JACKIE ERLER

Toronto OH

Anthony Rizzo

" "

Larry W. Harris

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Don Wiegand

Atwater, Oh

John Wiegand

Leetonia, Oh

Franklin Binkley

Monaca, PA

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Columbiana, OH

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INSIDE THE WORLD



Family, tradition, and Saratoga: Life lessons learned

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Photos courtesy of the Zast

Like Father, Like Son, Like Grandson

Saratoga through the eyes of experience and inheritance

B' IC ZAST

CHARLIE ZAST has spent three of his four August 1's at Saratoga Race Course. He missed his first August 1 because the nurses at St. Vincent's Hospital wouldn't let him leave for the track on the day he was born. Every August 1 since 2009, he has been at the Spa, sitting high up in the clubhouse with me, his grandfather "Papi," in row J of section J, where the view is panoramic, or up close to the action at the rail, atop his dad's shoulders or crouched low, peering through the legs of railbirds, where the view is at ground level.

Charlie, dressed in a T-shirt and shorts and clutching a toy horse in his fist, as if it and not he was the cargo, arrives in a red Radio Flyer wagon. He is a full-blown horse racing person, not simply a passenger along for the ride. Alert as a jockey in the gate, Charlie knows that the runners parade to the post from right to left when Sam the bugler blows his horn and knows where to look for the start of a race when the bell sounds. He is the only student in

Ms. Melissa's preschool class at 82nd Street Academics in Queens, New York, to have mastered his numbers from saddlecloths. He uses binoculars.

"How do you know on which horse to bet?" asks one hardcore horseplayer who sees Charlie with betting slips. Charlie answers, "I'm an animal expert." He shares his selections with anyone who's interested. Nevertheless, his picks aren't all that scientific or intuitive. It's the number three or number eight that he favors—the cursive bulges in the forms of the numbers a tad more artistic to him than the four or seven, although he doesn't admit it.

Unlike his almost four-year-old boy, Jon Zast hasn't spent all his 38 birthdays at the races. Still, he's witnessed more horse racing than most people twice his age. Jon notched the entire summer before entering his senior year in high school by working as a "gold coat" at Arlington Park. He's taken in a baker's dozen Breeders' Cups, one Preakness Stakes (G1), and five Belmont Stakes (G1), and, of course, the 120th Kentucky Derby (G1) won by Go for Gin, a couple days after his 20th birthday. The night before the big race, baseball great Stan "The Man" Musial played "Happy Birthday" on the har-

monica for him as TV announcer Jack Buck and baseball Hall of Fame catcher Johnny Bench sang the lyrics at a Louisville party.

Jon began to take Charlie to the racetrack to keep Charlie busy. Their early drop-ins at the Oklahoma training track for the morning workouts, strolls through Claire Court, and occasional stops at the Saratoga harness track, which Charlie calls "the slow horses," became, in effect, life's lessons. How one teaches your children the ways of the world is a choice that depends on perspective. But there are few methods better than an immersion in horse racing to explain risk, disappointment, and how most things are unpredictable.

Besides being a conscientious parent, my son, Jon, is an excellent handicapper. Only recently, however, did he master the crucial skill of money management—the last lesson of lucrative horse betting. That it's taken him this long to arrive at this crucial level confirms that the game, like the game of life, can't be learned overnight. The lengthy process causes me to wonder why racecourses spend money hosting horse racing classes. I would let people pick horses using a program and a hat pin until they figured out

August remains horse racing's proper time. Up in Maine, they call tourists "the summer bothers." But, in the city of "Health, History, and Horses," a couple hundred miles west, visitors are called "August people," and they're treated with greater esteem.

that there was a better way. Be-
gi would have fun and
w on seek the step-up. On
the other hand, I learned the
ropes from a mentor. So did Jon
and so will Charlie.

My love for the sport runs so
deeply that I was at old Latonia
in Covington, Kentucky, on the
Saturday that Jon made his First
Holy Communion in Wilmette,
Illinois. Shortly thereafter, I in-
doctrinated my new Christian
warrior in the sinfully seductive
sport that led me away on his holiest day. Jon became
my racecourse companion by age seven and, by age
eight, knew as much about horse racing as he did about
baseball and cars, and more than he knew about God.

When Jon turned nine, I dispensed with the lesson
about the birds and the bees with a visit to Spendthrift
Farm during breeding season. I have a faded snapshot
of Jon holding the reins of the champion Affirmed. He
net Seattle Slew that day face to face, too. "The stud is
he sire is the daddy," I explained hesitatingly, "and the
dam is the mare is the mommy." When I got to the end
and said, "That's how babies are made," he said, sim-
ply, "You've got to be kidding me."

When Jon was a little older, I convinced him to pick
up discarded betting tickets off the grandstand's littered
lacadam at Hawthorne and Sportsman's Park. I'd pre-
nd that one from his stack was a winner and gave him
buck for his find. In my way of thinking, this little
hite lie was a valuable lesson in how work pays off.
ou p and to a place of inclusion in the sport of kings
y al ng its subtleties, mostly by following exam-
e, a y working at grasping its nuance. Sooner or
ter, you become one of us.

THE HORSE RACING UNIVERSE has rules of
behavior, a language that's as foreign to the New
stament as Hebrew is to Koine, a history steeped in
ole and larceny, and a culture that's uniquely demo-
atic. An individual's opinion, regardless of the cre-
ntials he possesses for expressing it, is no better than
yone else's. Horse racing takes a generation to learn,
is the reluctance of our sound-bite society to respond
marketing, the little there is of it. The peristalsis is
rly invisible. Nevertheless, some never take to the
b.

People who enjoy horse racing delight in its diversity.
ple who don't see a fringe population that they don't
nt to interact with. People who enjoy horse racing find
pace of the game leisurely and productive. People

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who don't find it moving at a snail's
pace. The former believes the cost of
engaging in risk is small in compar-
son to the thrill it provides. The latter
finds betting wasteful and frivolous.
Demographic information is mean-
ingless for identifying the potential
horse racing fan.

Critics of laissez-faire patriarchy
might find it irresponsible, consider-
ing all the loftier traits they value,
but of the characteristics that serve
to define me, my involvement with
horse racing may be one that I'm
most pleased to pass on. I believe

the game provides a unique opportunity to teach young
people that, despite an occasional failing, they can be
happy. You have only a dozen or so years to impart your
values to your children, instill them with priorities, and
teach them about how to behave. Then they become
somebody else's child—most likely a ward of their
friends. Eventually, they return to you with fully devel-
oped opinions that are drawn from experience. If you've
done your job right, regardless of what those opinions
are, they become adults you admire and want to spend
time with.

My younger daughter, Biz, is getting married at the
Fasig-Tipton auction grounds in Saratoga Springs on
July 28. My older daughter, Annie, who like Biz is a
longshot player, will rush home from watching the Jim
Dandy Stakes (G2) to get dressed for the ceremony. I
have given my children identity and a lifetime of fun, to
say nothing of the awe of their friends. A day at the
races is often the excuse for us to bond. This past April,
my entire family booked reservations for November's
Breeders' Cup. I've never missed a Breeders' Cup.
Never. How did I get so devoted?

About 55 years ago, I worked as a stock boy in a
Buffalo, New York, supermarket that was owned by my
Uncle Stan. Stan was an unhealthy, silver-haired dapper
man with a résumé that included being a bootlegger and
marathon dancer. It was the pre-tech era when betting
with bookies was the only way to wager if you weren't
at the track.

By the same method of deduction that led me to figure
out that sending Jon off to pick up discarded betting slips
would enable me to bet on the races, Stan understood
that I could help him keep the secret of his horse gam-
bling away from his wife, my Aunt Ann. While he
manned the checkout counter, Ann managed the produce
department, not too far enough apart to keep tabs on each

continued on page 20

*When Jon turned nine, I
dispensed with the
lesson about the birds
and the bees with a visit
to Spendthrift Farm
during breeding season.
"The stud is the sire is
the daddy," I explained
hesitatingly, "and the
dam is the mare is the
mommy." When I got to
the end and said,
"That's how babies are
made," he said, simply,
"You've got to be
kidding me."*

Saratoga on TV

te	Stakes	Time (EDT)	Network
just 11	Fourstardave H. (G2)		
just 12	Adirondack S. (G2), Saratoga Special S. (G2)	6-7 p.m.	NBC Sports Network
just 18	Alabama S. (G1), Sword Dancer Invitational H. (G1)	6-7 p.m.	NBC Sports Network
just 25	Travers S. (G1), King's Bishop S. (G1), Test S. (G1), Ballston Spa H. (G2)	5-6 p.m.	NBC Sports Network
tember 1	Woodward S. (G1), Forego S. (G1), Bernard Baruch H. (G2)	4-6 p.m.	NBC
		5-6 p.m.	NBC

other. Stan would send me, then a freshman in high school, to run his bets to his bookie under the guise of delivering groceries to a customer who couldn't carry her own home.

Stan's bookie sat in the window of a gin mill. He was thick, like a bullfrog through the neck and the shoulders, and his rheumy eyes were hooded in mystery. He had arms the size of a wrestler's and legs with the heft of railroad ties, and a waist, not hard and washboarded, nor soft and rounded like an elder's—because he was barely in his 30s—but big enough to deserve a wide belt. The belt dipped an inch or two in the middle from either side of his frame like a cozy hammock or a clothesline that is burdened with wet laundry and you could see the notches he'd used a few meals back, if you dared stare—before he became a rounded mound of an ebony man, an imposing presence.

"Two, two, if come, four, four in reverse, two dollar place parlay" was the mysterious mantra I repeated to him daily, as he sat in a scarred bentwood

chair, his weight pushing the chair back on two legs, his lips uttering nothing while moving to the rhythm of a metronome, a filter-tipped Kool bobbing up and down in his mouth, scattering ashes on his shiny shirt, the smoke licking the space above in short bursts like an Indian's signals. The image was mesmerizing. The language was music, a verbal hieroglyphic that made me feel cunning.

Back then, in the 1960s, the tomatoes were locally provided to the Wishing Well restaurant—ripe because it was their time. The corn on the cob was picked from farms on the same day the cook stripped an ear from its husk and you swathed it in butter and bit in. In the evenings, horsemen from Kentucky, the Carolinas, and Florida downed sidecars and rusty nails at the Spuyten Duyvil. On a slow night, the owner—a former Harlem chorus line girl—would allow a fat man to spring into a handstand and tap dance on the walls from an upside down position, while, at the piano bar, a

chair, his weight pushing the chair back on two legs, his lips uttering nothing while moving to the rhythm of a metronome, a filter-tipped Kool bobbing up and down in his mouth, scattering ashes on his shiny shirt, the smoke licking the space above in short bursts like an Indian's signals. The image was mesmerizing. The language was music, a verbal hieroglyphic that made me feel cunning.

Horse racing, a sport on the brink of insignificance, has made many mistakes on its way to relative oblivion, although not understanding that less is more, when champagne is served, may be the biggest.

Regardless, the upcoming Saratoga racing season will be my 46th straight. Undoubtedly, a day will come when a thirst for greed overtakes an appreciation of scarcity, and then the Saratoga season will begin on the Fourth of July and end at Labor Day. But, when that day arrives, only fools with a poor understanding of Webster's, who believe that the word "season" can be used to describe any string of days, will still call it that.

Whatever the number of days, total immersion defines Saratoga as horse racing's ultimate experience. Streets are named after horses. Traffic signs warn drivers to let them cross thoroughfares at will. The newspaper is wrapped in a pink-printed tip sheet. Even motels have horse-referenced names such as Thoro-bred, which, except for a misplaced R, just might constitute the cleverest pun ever written.

Saratoga Springs hosts the National Museum of Racing; it houses the sport's Hall of Fame. Book signings by Turf writers take place almost every evening. Jockeys pause to sign autographs when walking to the saddling enclosure and silks room. They donate their time to tend bar or drive go-karts or play softball for charity. When journeyman Dean Mernagh sings "New York, New York" at the Permanently Disabled Jockeys Fund karaoke night, women, who stand six inches taller than he, hyper-ventilate.

SARATOGA'S MOST RECENT RACE meet extension occurred two summers ago when the season moved from 36 days to 40. Charles Hayward, then chief executive officer of the New York Racing Association, which operates the track as a not-for-profit organization under license to the state, tried to place a positive spin on the move's greedy underpinnings. Hayward declared, in an Albany Times Union news interview, "The expansion was a measured decision that reflects the overwhelming demand for racing that we have from horsemen in Saratoga." He could have said instead, "Even a bad day of business at Saratoga is better than a great day of business at Belmont Park."

Nevertheless, stretching a boutique meet into a long pull was not Hayward's most egregious misconduct. The track executive was unceremoniously relieved of his privileged position on the eve of this past Kentucky Derby for being involved in a cover-up of \$8.5-million that NYRA kept from bettors despite a change in the law that required the association to distribute the money. When the decision to fire him came out, Hayward was alone in his Saratoga Springs home, an exiled recluse. For a guy who wanted nothing more in life than to get closer to the game and managed to become one of its leaders, this was the basement in a long run at NYRA's helm that was fraught with politics and stress.

Hayward's ill-advised decision to hide what he did from the government became a convenient excuse for the state to suggest a premature end of its 25-year franchise agreement with NYRA. Within weeks of the underpayment disclosures, casino revenues that were mandated by law to be shared with the association were withdrawn from payment and challenges were made to its authority over two

continued on page 22

I recall a winner's circle drawn in chalk and a station near the current walking ring where you could stand to write postcards that NYRA would frank and send to your friends. The horses were paraded only eight times a day through a tunnel cut into the building to get to the racetrack



Eventually, my sister Genie, three years older than I, began driving me to Fort Erie. The quaint border track, now threatened with permanent closure, was the track at which Puss n Boots, on the lead in a grass race, jumped over the rail and went swimming in the infield lake, where I first saw Northern Dancer race, and where the Prince of Wales Stakes, the second jewel of the Canadian Triple Crown, is held. On my very first visit at age 12, I won a bet on a 53-to-1 shot named Olantangy. A few years later, when I left home for college, I found myself 250 miles east in Saratoga Springs. My discovery made me feel I had entered heaven.

How, then, did Saratoga horse racing become popular? Well, the answer might be found in the ambience. Some gamblers early on decided that for horse racing to thrive it would have to be held for a social purpose. Today, nearly 150 years later, it's not the \$930,000 in daily purses, not the 48 stakes races or 35 graded stakes, nor the stellar cast of horses, jockeys, and trainers in repertoire that elevates Saratoga beyond other racecourses—it's the nature of what's transpiring, the act of history in the form of a party repeating itself.

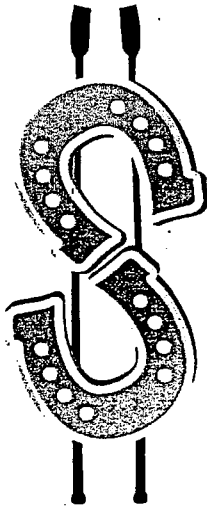
THE 24 DAYS OF SARATOGA as I knew them at age 18 had a country fair flair, but a country flair in which royalty gathered. The air felt so

chanteuse named Ida performed. There was Mother Goldsmith's for eggs and lox in the morning to cure a hangover. Such delicious indulgences have decreased, not increased, on the stretch-out.

Still, August remains horse racing's proper time. Up in Maine, they call tourists "the summer both-ers." But, in the city of "Health, History, and Horses," a couple hundred miles west, visitors are called "August people," and they're treated with greater esteem. Indeed, Saratoga Springs, a Victorian town where the architecture conflicts with the conduct, may be the only place left on earth in which someone who plays the horses has a loftier status than a person who doesn't.

THE 24 DAYS OF SARATOGA as I knew them at age 18 had a country fair flair, but a country flair in which royalty gathered. The air felt so

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Kentucky

hires from within to replace Hayward and General Counsel Patrick Kehoe, a second NYRA higher-up-made-scapegoat, to avoid further disruption. The name of Churchill Downs Inc., a hybrid casino and racetrack operator, was floated about like a duck on the pond of the infield as a possible replacement to run Saratoga, Belmont, and Aqueduct. Residents of Saratoga Springs cringed, knowing that the venerable racecourse's charm was at risk if it fell into carpetbagger hands. The most embarrassing indignity came when Gov. Andrew Cuomo, pursuing his own agenda, packed NYRA's board of trustees with political appointees, in effect taking over control.

Attendance at Saratoga has slipped almost every year for the past decade. NYRA hasn't been in the black since 2003. Not entirely its own fault, the franchise waited ten years to benefit from legislation that would funnel money from a casino at Aqueduct to its purse account and operating coffers. There has been a decline in amenities and improvements during the waiting period and old-timers notice it. Newcomers simply believe it's a curiosity—a place that's seen better days and needs to be visited before going under the wrecking ball.

The clubhouse, a vision of the old world with its wooden floors, overhead fans, and white linen tablecloths, has lost grace. Two cubicles, euphemistically referred to as skyboxes because they are air-conditioned, invade forgotten nooks of the building like shoeboxes in which hamsters are buried. Many of the red and white awnings have turned pink and white. Paint drippings, which have been haphazardly allowed to descend on the edifice's cast iron steps, reveal a tendency to hire workers without the capability of artists, revealing a laissez-faire oversight.



*Saratoga Springs,
a Victorian town where
the architecture conflicts with
the conduct, may be the only
place left on earth in which someone who plays the
horses has a loftier status than a person who doesn't*

There's been another recent development that's as damaging as cancer. Horse racing interests have taken to disparaging their product by publicly telling taxpayers how unpopular the sport's become and how it can't compete with casinos. By pulling pranks such as walking a tombstone up the steps of the Capitol Building in Albany, New York's horse industry leaders believed they could move the Legislature into favoring them with the fulfillment of promises. All the unsightly grandstanding accomplished was to turn off the public by painting the sport as a loser.

Hayward told the press at the start of the 2010 season that people who come to Saratoga don't pay attention to the negative posturing of politicking. But his threat to close the track when he didn't get a reaction from the state to pay NYRA what it was legally owed, an inference he later denied, sent chills up the back of hotel keepers and restaurant owners who saw business slipping away as a result of the slip of tongue. What Hayward failed to comprehend was the importance of romance. How people perceive situations is more powerful in marketing than facts.

NO DOUBT, THERE WERE DISAPPOINTING business periods, operational difficulties, scandals, and troubles in my day. But they were obscured by the spectacle's exotic definition, the racecourse's huge crowds, recurring success of its equine heroes, and the varnish of cool. Although

He is the only student in Ms. Melissa's preschool class at 82nd Street Academics in Queens, New York, to have mastered his numbers from saddlecloths



seems there's a dedicated effort to further estrange the fans from the horses and that wouldn't sit well with anyone.

What has a buffet added to make breakfast at the track a unique repast? How has allowing men in shorts and collarless shirts in the clubhouse promoted the idea that a clubhouse seat should command premium pricing? Have too many changes been made for the sake of immediate profit-taking without reference to changes, which over time will enhance the experience? I believe so.

continued on page 24

Saratoga always has shunned a contemporary resonance, it has seen changes in my time that Jon and Charlie don't realize. In other words, Charlie will engage a Saratoga that Jon didn't when I led him to the track on his initial pilgrimages.

Last summer, NYRA unveiled a grand plan for Saratoga that would challenge my ideas of constancy. This was to be the year in which Hayward and Paul Roberts of Turnberry Consulting, the British firm that helped Ascot Racecourse in England to modernize, were to offer for a vote to the board of trustees on a \$100-million plan that would rearrange the racecourse grounds in ways that would present Jon and Charlie with their own Saratoga experience.

The overall vision was to restore Saratoga's historic fabric with a series of ideas that included a new walking ring with stepped terracing—one that would allow the fans to see the horses instead of the back of well-heeled horse owners and their friends. The plan involved building new administration offices and jockey quarters at the far west side of the walking ring. It called for moving the west clubhouse entrance farther north so it would be closer to Big Red Spring and for sprucing up the Carousel restaurant. Roberts and Hayward disagreed on what it should be. Hayward wanted a sports bar.

Two summers ago, NYRA added an out-of-character building so a New York City businessman could operate a couple outposts of popular Manhattan restaurants. The historic preservationists were uncommonly quiet. But NYRA officials, operating in a typical haughty way, said they were within their rights to erect the structures on racecourse grounds in any form they wished and without anyone else's approval, rationalizing that it was a temporary building. I asked Jon, who besides being an adman is an architect, what he thought of the building. He just shrugged. My other children often bet and watch races on television from the bar that's in front of the new complex. They love the action (and the hamburgers).

When you fall in love with something because it has a certain look or feels a certain way, it becomes difficult to remain in the same state of rapture when it changes. But a world without change is impossible and, furthermore, feeble. I try to not dwell on a past when the picnic grounds were used as a saddling area. Given modern-day realities, the possibility of having the horses walk through the crowds is ridiculous. But sometimes it

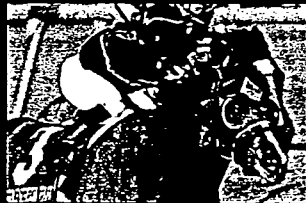
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Fasig Tipton

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I'd pretend that one from his stack was a winner and gave him a buck for his find. In my way of thinking, this little white lie was a valuable lesson in how work pays off. You ascend to a place of inclusion in the sport of kings by absorbing its subtleties, mostly by following example, and by working at grasping its nuance. Sooner or later, you become one of us

Before me, people recalled a Saratoga that featured the Grand Union Hotel, the Arrowhead Inn, and Newman's Lake House, where blackjack was played and famous entertainers such as Bing Crosby, Sophie Tucker, and Joe E. Brown performed. They tell of walking the horses from the train to the track for \$3 a head and of riding to the races in four-in-hands. Before them, Saratoga held the memories of John W. "Bet a Million" Gates playing faro at The Club House, Man o' War being upset by Upset, and Arnold Rothstein fixing the Travers. Memories become dust, sweet nostalgia.

I remember the backyard with trees wrapped with numbers. There were narrow dirt paths circling their trunks. Owners, trainers, common fans, and horses were at equal advantage of participating in the prerace preparations. As for the racing, Saratoga scheduled a steeplechase race every day—usually the third race. On Saturdays—the biggest days—the infield was open to patrons. Workers put down planks at the quarter pole and the public was allowed to cross over. Races at a mile on the main strip began in what is now a parking lot from what was then called the Wilson chute. The horses would dash for almost two furlongs in a northeast direction before heading north on the backstretch and completing their journey. Jon and Charlie have never witnessed a mile or a 1 1/4-mile race on the dirt at Saratoga.

I recall a winner's circle drawn in chalk and a station near the current walking ring where you could stand to write postcards that NYRA would frank and send to your friends. The horses were paraded only eight times a day through a tunnel cut into the building to get to the racetrack. Sundays were dark. The Whitney, Alabama, Travers, and Hopeful Stakes highlighted the meet's Saturdays, and you'd wait on the news of which horses would run in each as if the whole world depended on it.

Often, the trainers would decide at the very last minute, wanting to learn first how their charges had fared since their most recent start a week ago. In the week prior to Onion beating Secretariat at 1 1/4 miles in the Whitney Handicap (G2), he broke the track record for 6 1/2 furlongs on Tuesday and had a hard one-mile workout on Thursday. With a nod to gavage, the compacted season enabled horse-owning families to reside in Saratoga Springs the entire month of August.

The exceptionally rich closed their mansions in Newport, Rhode Island, at the end of July and opened their mansions on North Broadway when the racing began. The merely rich rented homes or stayed in the few

motels that provided a proper address. Alfred Gwynne Vanderbilt lived in the house that I own on 5th Avenue. The New Warden Inn was a popular hotel on Broadway for seasonal boarders. Everyone, including the jewel thieves, knew where everyone was by reading the "Cottage List." For a nickel, a burglar could haul in \$10,000 by reading the newspaper.

On any given day, horseplayers could find horses on the race card that were owned by men of genuine stature with longstanding sporting inclinations, not snack food promoters and automobile salesmen who made their decisions to race on the basis of an operating statement. To see the following day's fields, you'd visit the news shop on Broadway at 11 p.m. because

that's when *Racing Forms* arrived from New York on a Greyhound bus. It was better having to wait for the information than to have it at the end of the previous day's races because the wait added intrigue. As the clock ticked, conversation kept people engaged on their porches with their neighbors, transistor radios, and Long Island ice teas. Horse racing, in general, but Saratoga racing, specifically, is about anticipation.

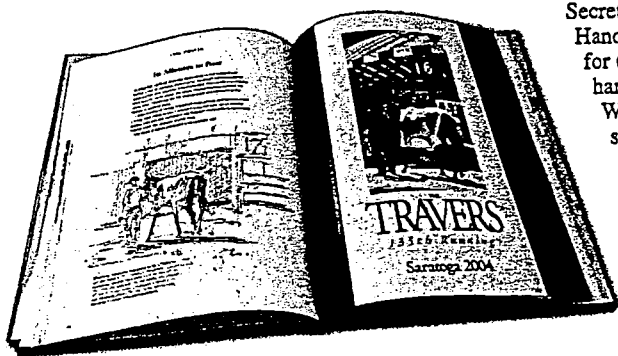
JON HAS SAID ONCE OR TWICE that he wants a racetrack that affords him a sense of remove. He enjoys the feeling that he's in a place that not everyone approves of—a place where wholesomeness gives way to daring and secrets abide. The racecourse was scary to me when I started to go. I felt like an innocent child taking a walk on the wild side. But the perception that I was in a place that wasn't meant for me, consorting with dubious characters, stoked my desire.

Conversely, the practice of leaving a newspaper on an empty seat to reserve the spot without fear that anyone would take it, which was the custom of my youth as opposed to reserved seating, reveals a different emotion. In my day, the racetrack was, in effect, a trust-dependent, code-specific institution with country-club manners. And the code was shared wider than any entertainment—baseball, football, and basketball included.

As my boy becomes a man in the game, the Saratoga that he and Charlie and Charlie's children will know will reflect the crass, market-based society that we, as Americans, seem fond of. The racecourse will reflect an even more obvious personality of separatism between those who have and have not. If money to build skyboxes becomes available, they'll be built. The Carousel Restaurant may not become the sports bar that Hayward envisioned, but one of the many state-run casinos that Cuomo imagines. The idea that something should change to improve the experience has given way to change for the sake of making more money. Fewer people than ever know the difference. As for me, all I want is a Las Vegas water show set to music like the one that they have at the Bellagio—a spectacular infield event to keep people in their seats until the stakes race goes off, like the flight of the flamingos at Hialeah Park.

Time is impermanent. The original image of a place never really goes away, often wrapped up in the memory of people who were there when you knew it—my sister Genie and her first husband, Tom, Ted and Dorothy McClellan, assorted schoolmates from college, and Crafty Brittle in my formative years—mostly gone in the sense of their presence, although not in their influence. The flip of a calendar page simply blurs out the details you don't care to recall.

As they grow old, Jon and Charlie will reminisce about the golden days—bearing me dole out advice as if I knew what I was talking about, taking delight from the rare times I hit on the truth. My son and his son will maintain a spoken record of what precisely took place when history was made or imagined. They'll remember my wife laughing each time she hit a \$1 exacta. They'll recall dining at Hattie's and dancing at Siro's, Charlie up in his father's arms being bounced to the beat of a bad local band, my daughters passing him around as if love was a polka, smothered in attention and made to feel one with us, as it's supposed to be with family.



The History and Art of 25 Travers by Vic Zast

Vic Zast is the author of *The History and Art of 25 Travers*, a finalist for the Dr. Tony Ryan Book Award sponsored by Castleton Lyons and THOROUGHBRED TIMES, and the keeper of the "Saratoga Diary" for www.bloodhorse.com.

Doug Johnson
Thoroughbred Trainer
2618 Lyntz Road
Warren, OH 44481
216 533 2552

July 26, 2012

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

TB040

Doug Johnson

Received 08/10/2012 0915



Dear Commissioners,

I am writing regarding the proposed changes to the West Virginia Rules of Racing.

I am deeply disturbed with some of the rules that you are proposing specifically the amendment to 178-1-24.11 which adds grounds for denial or discipline of a permit to include the following (a) knowingly, or without conducting proper due diligence, sells a horse for slaughter, directly or indirectly. (b) has abandoned, mistreated, abused, neglected, or engaged in any act of cruelty to a horse. I am strongly opposed to (a).

For the past 35 years I have trained and owned Thoroughbred race horses. Throughout my career, I have bought and sold thousands of horses. Many of those horses have gone on to the breeding shed, continued their racing career or gone on to second careers. I find it irresponsible that you would consider an amendment that would penalize me for selling a horse that could possible one day end up at a slaughter facility. The interpretation of due diligence can mean different things to different people.

The idea that a state can adapt a rule that is a direct contradiction to a federal rule is incomprehensible. The President of the United States recently signed a law that restored the American horse slaughter industry. There is documented proof that these policies are hurting more horses than it can possibly help.

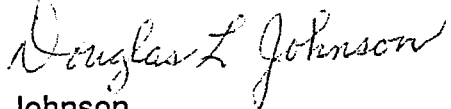
Trainers are being put in an unreasonable position with policies such as this. I work very hard to try and find homes for the horses under my care. I want them to have second careers and don't feel I should be punished if somewhere down the road a horse that once raced in my name ends up at an auction or slaughter facility. I can tell

you I would rather they be humanely slaughtered than to find they have starved to death.

I also take issue with the ruling that permit holders must be 18 years of age. This is an unique business in that one doesn't attend college to be a trainer. Although, many trainers do in fact have advanced degrees, one learns to train horses by doing it. They learn about conditioning and basic care from the ground up. I think that this rule will provide a great disservice to the industry. Horse racing is by nature an agricultural industry. What agricultural industry is not handed down generation to generation. I have raced at many racetracks throughout the nation and most, if not all, allow permit holders to be 16 if not younger.

I hope that you consider the comments of the owners and trainers before you make a decision that will greatly impact the way we do business. Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Douglas L. Johnson".

Doug Johnson

Trainer Mountaineer Park

Amores, Jon

From: Sue Stivers <sstivers@aaep.org>
Sent: Wednesday, August 08, 2012 12:00 PM
To: Amores, Jon
Cc: Beachdoc3@aol.com; 'Sally Baker'
Subject: State of WV Current Racing Rules



American Association of Equine Practitioners

4075 Iron Works Parkway • Lexington, KY 40511

859.233.0147

fax: 859.233.1968

www.aaep.org

TB041

AAEP



Received 08/08/2012 1200

August 8, 2012

Mr. Jon Amores
Executive Director
West Virginia Racing Commission
10 Pennsylvania Ave., Suite 533
Martinsburg, WV 25302

Sent via email and US Mail

Dear Mr. Amores:

The American Association of Equine Practitioners wishes to submit comments for the Commission's consideration as part of your open comment period on proposed amendments to the current rules of racing in the State of West Virginia.

Because the mission of the AAEP is to improve the health and welfare of the horse, we wish to address only those amendments which affect the safety and health of the racehorse. Therefore, the AAEP supports the following proposed amendments to 178 C SR 1:

- Amendments to the Non-Steroidal Anti-Inflammatory Drug (NSAID) provisions of the rule to lower the acceptable threshold for phenylbutazone in horses from five micrograms per milliliter to two micrograms per milliliter, in conformance with the RCI Model Rule.
- An amendment to the rule to require that the drug furosemide (Lasix) shall only be administered to horses on racetrack grounds.
- An amendment to the rule to require that horses that are potential starters in a race be on racetrack grounds for pre-race examination by a State Veterinarian at least four hours before post time of the race in which the horse is scheduled to start.
- Amendments to the rule to eliminate the use of adjunct bleeder medications in horses on race day to conform with the RCI Model Rule.

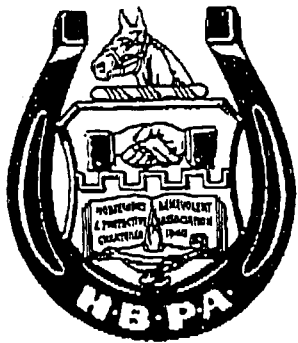
In addition, we support the adoption of updates to West Virginia's Uniform Classification Guidelines for Foreign Substances, and amendments to Penalty Guidelines for Violations of Medication and Prohibited Substances Rule, so that penalties match those set forth in the RCI Model Rule. Furthermore, with regard to the race-day administration of xerosemide, the AAEP supports administration by regulatory veterinarians or a practicing veterinarian in a controlled setting.

Thank you for your consideration of our comments. The AAEP's goal is to serve as a resource for the racing industry, and if we can be of assistance with any horse racing issue within the State of West Virginia, we welcome the opportunity.

Sincerely,

A handwritten signature in black ink that reads "John S. Mitchell, DVM". The signature is written in a cursive style with a large initial "J" and "M".

John S. Mitchell, DVM
2012 AAEP President



CHARLES TOWN HBPA
PO BOX 581
CHARLES TOWN, WV 25414

PHONE (304) 725-1535

FAX (304) 728-2113

FAX COVER SHEET

TO: Jon Amores 304-558-6319
Kelli Talbott 304-558-0140

FROM: Maria Catignani

Number of pages including cover page 4

Message: petition for public
comment re Thoroughbred
rules of racing.

TB042

Maria Catignani

Received 08/13/2012



1423

Petition to Change the age of 18 to 16 to be licensed in the barn area.

We the undersigned electors of the Charles Town Race Track horseman request that the rule of racing listed be changed to the age of 16. "WV Rule of Racing Rule 178-1-24.1.g which states, "The Racing Commission shall not grant an occupational permit to anyone under eighteen (18) years of age. An applicant may be required to submit a certified copy of his or her birth certificate in connection with his or her application for a permit"

We, the undersigned, are concerned citizens who urge our leaders to act now for the following reasons: These teens should have the same rights as licensed drivers and experience work ethics and responsibility as well as to support family businesses.

To: WV Racing Commissioners
 State of West Virginia
 900 Pennsylvania Ave
 Suite 533
 Charleston, WV 25302

petition summary and background

Action petitioned for

Petitioner Name	Signature	Address	Comment	Date
Hope Smith	<i>[Signature]</i>	P.O. Box 923 Hanson	about of training plans their kids help work	7-25-12
Jenny Lynn Hykes	<i>[Signature]</i>	P.O. Box 1083 Town, W.Va	Charles	7-26-12
Tracy Willis	<i>[Signature]</i>	P.O. Box 29 RANSON	At 16 they have shown during the season	7/26/12
Wade Sanders	<i>[Signature]</i>	N7 Longfield Lane SHARON, WV 25401		7-26-12
Tim Colton	<i>[Signature]</i>	P.O. Box 164 RANSON, WV 25438		7/26/12
Stephen Sears	<i>[Signature]</i>	863 Coptail Run Rd 25439	Should never be on 18 changed to 18	7/26/12
Joe Stehr	<i>[Signature]</i>	1231 Currie Rd RANSON, WV 25439	Should be licat 16.	7/26/12
RONALD WILF	<i>[Signature]</i>	PO BOX 649 RANSON, WV	SHOULD BE LIC 16	7/26/12

Printed Name	Signature	Address	Comment	Date
G. Moschone	<i>G. Moschone</i>	1645 E VIGESWICH ROAD HAZLEBROOK	THEY SHOULD PERMIT can we family help	7-29-12
Julie Hess	<i>Julie Hess</i>	4308 Old LeeTownPlace Charles Town WV		7-26-12
Virginia	<i>Virginia</i>	821 Aztec St		
Dennis	<i>Dennis</i>	331 Prospect Hill Blvd Lyt WV 25414	Ok then a permit	7-26-12
Rhea Pennele	<i>Rhea Pennele</i>	315 Blueberry Lane Berkeley Springs WV 25411	they need a Education	7/26/12
John Jones	<i>John Jones</i>	11 Buleby Springs WA 25411 Fax no 21200		7-26
David Wimpigler	<i>David Wimpigler</i>	8230 Glenloch Dr		7/26/12
GRAHAM DAVIS	<i>Graham Davis</i>			
F.G. Smith	<i>F.G. Smith</i>	196 Daisylin C.T. WV. 25414	they need a job.	7-26-12
S.N. Pollard	<i>S.N. Pollard</i>	215 Grammy Ave Berkeley Springs WV 25414	They need work too!	7-27-12
Ollie L. Figgins Jr	<i>Ollie L. Figgins Jr</i>	29 Sunbroad Ln. Charles Town, WV. 25414		7/27/12
Lori Bourne	<i>Lori Bourne</i>	92 Ann Bend Rd CT, WV 25414		7/27/12
FRANK YOUNG	<i>Frank Young</i>	711 E MAIN ST. BERRY VA 25414		7-27-12
ALEX CORSE	<i>Alex Corse</i>			7-30-2012
Glenn N Harrison	<i>Glenn N Harrison</i>	14 McCormack Lane Charles Town WV 25414		8-1-12



821 Corporate Drive
Lexington, KY 40503
Telephone (859) 224-2700
Fax (859) 224-2710
Internet: jockeyclub.com

August 13, 2012

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

Re: Proposed Rule Amendments

Dear West Virginia Racing Commission:

The Thoroughbred Safety Committee ("Committee"), a standing committee of The Jockey Club, received notice for comments regarding a number of amendments to Thoroughbred Racing 178 CSR 1 proposed by the West Virginia Racing Commission.

The Committee was created in 2008 to review every facet of equine health and to recommend actions the industry can take to improve the health and safety of Thoroughbreds. The Committee has studied many issues related to the safety and integrity of Thoroughbred racing. For a full list of recommendations, please visit <http://www.jockeyclub.com/tsc.asp>.

Last year, The Jockey Club commissioned the noted consulting firm, McKinsey & Company to comprehensively analyze and recommend strategies for producing sustainable growth in the Thoroughbred industry. Included among the nine (9) recommended strategies was to immediately address a growing negative perception towards drug rules and penalties that could erode the public's confidence in the integrity of the sport. Varying rules and penalties among racing jurisdictions on matters fundamental to integrity such as medication and laboratory testing, are a source of confusion to stakeholders including horsemen, owners, veterinarians and customers.

To address these concerns, in August 2011, the Committee published the Reformed Racing Medication Rules ("Rules") as a template for a uniform national medication rulebook for the United States. The Rules were developed with the assistance of experts from the regulatory, veterinary, chemist and training communities.

Features of the Rules include:

- A new system for classifying permitted medications in the race horse.
- New regulatory thresholds and guidelines for administration to provide owners, trainers and veterinarians guidance to clearly distinguish when therapeutic medication treatments should end prior to competition beginning.
- New penalties to provide strict deterrents to cheating and encourage inter-jurisdictional comity in adjudicative decisions.
- Requirements that only labs accredited to the highest standards are permitted to test samples to the same level of precision to avoid discretion when evaluating results.

TB043

The Jockey Club

Received 08/13/2012 1619



REC 13AUG12 PM 4:19

The Jockey Club encourages all racing regulatory authorities to consider adopting the Reformed Racing Medication Rules.

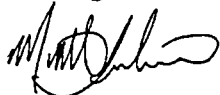
After review of the amendments to Thoroughbred Racing 178 CSR 1 proposed by the West Virginia Racing Commission, the Thoroughbred Safety Committee expresses its support of the following amendments proposed by the West Virginia Racing Commission:

1. Reducing the acceptable threshold for phenylbutazone in horses from five (5) micrograms per milliliter of serum or plasma to two (2) micrograms per milliliter of serum or plasma.
The Reformed Racing Medication Rules requires the discontinuation of treatments with phenylbutazone 48 hours prior to the day of the race which supports an even lower regulatory threshold for phenylbutazone of one (1) microgram per milliliter of serum or plasma. Based upon testimony from veterinarians and research, the committee believes lower regulatory thresholds for all medications commonly used in the management of pain will provide veterinarians, charged with the responsibility of pre-race inspections, the best opportunity to detect soundness issues that may require closer examination.
2. Requiring all horses to be present on racetrack grounds at least four (4) hours prior post time to allow sufficient time for adequate pre-race examination by a State Veterinarian.
The Reformed Racing Medication Rules contains the same requirement.
3. Amendments to Table D of the Rule to reflect the addition of new Prohibited Substances.
The Reformed Racing Medication Rules has a simplified drug classification system that provides regulatory thresholds and withdrawal times for the 25 most commonly prescribed medications to horses in training. Everything else is considered a prohibited substance subjected to harsh penalties.
4. Amendments to Table E of the Rule to increase penalties.
The Reformed Racing Medication Rules contains a new and progressive penalty system that assigns points with each violation based upon the medication involved and the cumulative number of violations within a three-year period. Greater fines, disqualification of purse and longer suspensions including life-time bans provide powerful deterrents to inappropriate behavior.

The Committee supports the proposed amendment to eliminate the administration of adjunct bleeder medications on the day of the race. The Committee requests the West Virginia Racing Commission also consider developing a plan to phase out the race-day administration of furosemide.

Please do not hesitate to contact me if you have any questions or need additional information on this topic.

Kind regards,



Matt Iuliano
Executive Vice President & Executive Director
The Jockey Club
cc: Members, The Jockey Club Thoroughbred Safety Committee

HOLLYWOOD Casino

— AT CHARLES TOWN RACES —

Post Office Box 551 Charles Town, WV 25414

WVRC 13AUG'12 PM 4:19

Mr. Joe Smith, Chairman
Mr. Jack Rossi, Member
Mr. R. Gregory McDermott, Member
West Virginia Racing Commission
900 Pennsylvania Avenue Suite 533
Charleston, WV 2530

TB044

HCCTR

Received 08/13/2012 1619



August 10, 2012

Dear Commissioners:

Hollywood Casino at Charles Town Races ("HCCTR") wishes to exercise its right to submit a public comment regarding the recently filed proposed changes to the West Virginia Thoroughbred Rules of Racing (the "Rules of Racing"). HCCTR is providing comments that both support language and policy changes already included in the revised Rules of Racing, as well as implore the West Virginia Racing Commission ("WVRC") to consider some additional changes.

I. Increase in Fines

In the recently filed Rules of Racing, a significant upward adjustment was made in the fines that can be levied against trainers and owners committing rule violations and, specifically, for running afoul of the medication rules contained therein. This is a positive and necessary step taken.

The nature in which the racing industry deals with those breaking its rules has rightfully come under attack in recent months. Our sport is no longer at a crossroads in terms of the integrity maintained by its participants. We are now roundly viewed as an industry wrought with a degree of corruption that has eroded the public's confidence. We are seen as lenient and not doing what we can to protect both the public and the safety of the athletes. From HCCTR's point of view, this criticism is not without merit.

People who are wagering their hard earned money on our product deserve the comfort of knowing that we are doing what we can to police it, we are punishing those who cheat or demonstrate recklessness in complying with rules and that they are their spending income on something transparent and free of nefarious conduct. The prior scope of the WVRC's ability to fine participants was not consistent with providing this environment.

In the previous draft of the Rules of Racing, "Category B" penalties – the middle of the three penalty levels - called for a minimum fifteen (15) day suspension and no fine for a trainer's initial positive in a one (1) year period. The fine for a trainer's first infraction in the most severe category of offenses was set with a floor of just \$1,000. These fines are simply not an adequate deterrent. Trainers would be inclined to either cheat outright or take the proverbial "shot" and push the envelope, knowing the penalty is worth the risk of being caught.

The new fines in the proposed Rules of Racing are neither outlandish, nor without precedent. They have been approved as part of the industry's Model Rules and endorsed by numerous industry stakeholders including Association of Racing Commissioners International, the Jockey Club and several jurisdictions.

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Finally, we do not believe the WVRC or those ultimately responsible for passing these new rules into law should view these increased fines as means of revenue generation. Instead, they should be looked at as a necessary means of deterrence and punishment to help ensure the long term future of the industry is not one wrought with questions about the integrity of its participants and safety afforded its equine athletes. Not increasing the penalties for those found to be violating the Rules of Racing sends the message that our current scheme has the appropriate punishment and deterrence mechanisms in place to ensure this. Unfortunately, reality dictates that this could not be farther from the truth.

It's sad to say, but we need this type of financial deterrent in order to restore integrity in the sport. We've heard that some owners and trainers could be put out of business should they incur a fine of this magnitude. In our eyes, someone committing rule violations with a frequency or severity as to incur this fine, should not be in the game. We must take steps to rebuild the integrity in horse racing instead of being concerned of the hardship that will be imposed on someone who habitually or carelessly violates the rules they are bound to play by.

II. Phenylbutazone Threshold Change

HCCTR is in full support of the decision in the proposed rules that eliminates adjunct bleeder medication and lowers the permissible concentration of Phenylbutazone (or "Bute") to 2.0 mcg/ml.

Bute is a non-steroidal anti-inflammatory medication that can suppress pain (or painful conditions) felt by racehorses prior to, and during, competition. It is frequently analogized to NSAID's given to humans, such as ibuprofen or acetaminophen, that alleviate pain associated with moderate ailments. Put simply, the administration of Bute can mask injuries and allow horses with infirmities to compete when they otherwise would not have been able to.

Ample evidence and testimony suggests that the administration of Bute makes it difficult for those around the horses to obtain an accurate assessment of their racing soundness. After concerns were raised by the ARCI's veterinary committee as to the current Bute threshold levels making such assessments difficult, a members the Racing Medication & Testing Consortium's scientific advisory committee performed their own analysis. Their analysis indicated that "the preponderance of scientific evidence indicates phenylbutazone at levels currently permitted in U.S. horse racing compromises clinical evaluation." It makes no sense for the final safeguard against horses going out to the track unsound to be compromised by levels of medication that mask injuries the safeguard is designed to identify.

The movement for the reduction in Bute thresholds has been so strong that not only did the Board of Racing Commissioners International vote to lower the allowable level of Bute to the 2.0mcg level, but they did so in a unanimous 16-0 vote. The Thoroughbred Racing Association ("TRA") Board of Directors, that represents 41 racetracks in the US & Canada and includes HCCTR, also unanimously came out in support of it. Furthermore, of the 7 states that comprise the Mid-Atlantic racing circuit (Delaware, Maryland, New Jersey, New York, Pennsylvania, Virginia and West Virginia), West Virginia is the only state that still has a 5.0 mcg threshold still in place. All other states have dropped to the 2.0 mcg standard.

III. Minimum Age for Occupational Permit

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HCCTR remains in full support of the minimum age for occupational permit issuance remaining at eighteen (18) years of age and stands in firm opposition to moving that age back down to sixteen (16) years of age. It is HCCTR's position that unless someone has reached the full age of legal responsibility, which is eighteen (18) years of age, they should be precluded from obtaining an occupational permit. As we've previously pointed out, people are seeking permits to work around animals that are often fractious and weigh a half-ton and do so in restricted areas at a property whose business is driven by gambling. If this does not paint the picture of an area that should be limited to adults, we're not sure what does.

As a private property owner, HCCTR stands opposed to serving as an equine training ground for teens and incurring the associated risk and potential liability that goes along with doing so. That's not the racetrack's role. This is a place of professional business in an adult environment. It is not appropriate for a private property owner to be compelled to assume this significant liability of minors working in a potentially dangerous capacity, as a haven for teenagers dropping out of school or a place where parents can put their 16 year old to work and reap the benefit of cheap labor instead of hiring a professional. And while there are likely those under the age of 18 who could succeed in a professional capacity at the track, for every Steve Cauthen, there are exponentially more people at the other end of the spectrum.

The argument heard most often as a counter to the mandate of the 18 year old threshold is that 16 and 17 year olds represent the "future of racing". However, where is the actual evidence that raising the minimum age from 16 to 18 is going to have a material impact on the future of this industry? Other than people surmising it, there has not been one iota of proof that this will lead to some tangible, long term impact on racing's future. With all due respect to those who advance it, the notion that not allowing 16 and 17 year olds into restricted areas at the track will do irreparable harm to the industry's future is, at best, far-fetched.

West Virginia restricts the ability of minors to work in atmospheres that pose similar ostensible risks. To give just a couple of the many existing examples in West Virginia law, minors can't work in any sort of mining, in any meat-packing or rendering process, with power driven bakery machines, operating band saws, in demolition operations or in roofing jobs. Despite the preclusion of 16 and 17 year olds from working in these capacities, there is no shortage of meat, baked goods or roofs in West Virginia, nor are we aware of any that is foreseen.

Part of the problem is that what's glossed over is the fact that teenagers determined to gain experience around horses before they turn 18 are free to go to farms and private training centers to do so. There are numerous other outlets. If those farms, training centers or riding academies wish to take on the responsibility of allowing minors, who have potentially opted out of schooling, to hone their trade on their property, they are free to do so. That's simply not a risk that HCCTR is willing to take with its property.

IV. 3rd Party Lasix Administration & Adjunct Bleeder Medication

While HCCTR supports the proposed elimination of adjunct bleeder medication on race day, we believe the WVRC missed an important opportunity to make strides in ensuring racing's integrity by not mandating Lasix be administered on race day by only a neutral third-party or state veterinarian. Part of the negative perception attached to Lasix is due to the nature of the administration itself. Unless regulations mandate otherwise, Lasix administration is often performed by a private practitioner who injects the horse approximately 3 or 4 hours prior to that horse competing.

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Having a private veterinary practitioner, often hired by the trainer, come in contact with a horse on race day and stick it with a needle 3 or 4 hours before it is to run does not pass the so-called "smell test" with many inside the sport, let alone with the public at large. Why should we be allowing those who could administer a doping agent or other prohibited substances on race day the access and opportunity to do so when there is a viable and reasonable alternative?

With that said, HCCTR strongly supports the adoption of the following ARCI Model Rules provisions with respect to Lasix administration:

(a) Furosemide shall be administered by the official veterinarian, the racing veterinarian or his/her designee no less than four hours prior to post time for the race for which the horse is entered.

(b) Any veterinarian or vet techs participating in the administration process must be prohibited from working as private veterinarians or technicians on the race track or with participating licensees

Pennsylvania recently adopted a similar policy and New York has not allowed for private veterinarian administration of Lasix for some time. Much like with the level of fines called for by the industry's Model Rules, numerous industry groups have endorsed this policy, including the TRA and National HBPA. A passage on the National HBPA's website that chronologically lists the events in the industry-wide medication dialogue reads:

"July 24 – The National HBPA unanimously passed a resolution calling for the elimination of all medication administered on race-day (including adjunct bleeder medications), with the exception Lasix to prevent Exercise Induced Pulmonary Hemorrhage (EIPH), provided the Lasix is only administered on race-day at least four (4) hours prior to racing by a regulatory veterinarian in the horse's stall."

It is time for West Virginia to adopt the increasingly prevalent industry viewpoint on adjunct medication and Lasix administration.

Any notion that the WVRC will be unable secure the services of such a third-party veterinarian seems unlikely. Should the WVRC not wish to hire its own veterinarian to administer Lasix, it can contract with one of the numerous doctors of veterinary medicine in the surrounding areas to do so. This type of contract was procured in connection with the aforementioned policy in Pennsylvania.

Currently, the administration of Lasix is spread out over a handful of veterinary practices around the track at Charles Town. If it's profitable for private practices to administer Lasix to a fraction of the horse population, it stands to reason that some individual veterinarian or practice would find it desirable to assume all of the Lasix administration. Finding a veterinarian whose practice is devoid of business at the track is not even required from a practicality standpoint. All that needs to be found is a veterinarian who sees a gain from administering the medication to all horses racing at HCCTR that exceeds any lost income through private vet work at the track. We have previously provided the names of several veterinarians in the area to the WVRC and would be happy to do so again.

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V. Ejection Exclusion

In 2011, the West Virginia Supreme Court ruled that the current language in the Rules of Racing allow for permit holders to appeal private property ejections to the WVRC. HCCTR implores the WVRC to make the necessary changes to its Rules of Racing to reinforce the track's long standing, common law right to eject people from the private property it owns and allow the tracks to exercise a critical element of control over who it's compelled to do business with and the righteousness of the business it hosts.

As the nature of the issues raised by these proposed rules, the Senatorial hearings recently held and the constant spotlight cast upon equine injuries and medication administration suggest, the integrity of our sport is the most pressing issue it faces right now. The track's ability to eject has virtually always been seen as an important component of keeping order in our game and as a valuable layer of enforcement. Now, at a time where integrity is paramount and our ability as an industry to maintain it is being questioned on a daily basis, a layer of enforcement has been stripped out in an action that strikes another blow to the purity of our game.

The three appeals having been heard so far where a decision has been recommended or is forthcoming involved the significant financial irresponsibility of a horseman, a jockey caught red handed trying to take weight stashed in his pants out prior to going to the track and a trainer with loaded syringes found in his tack room. Instead of ejecting these individuals as it previously could have, the track's decision to do so is scrutinized and reviewed by the same fact finder already tasked with enforcing the Rules of Racing.

Some of the other appeals that appear to be forthcoming in the coming months involve fact patterns that likewise deal with important integrity matters. One is from a former trainer who had syringes discovered in her barn and later pled guilty to witness tampering. Another is from an individual who refused to honor a ban in the casino for impermissibly taking tickets out of machines on the gaming floor and attempting to cash them. These are the types of individuals now given another outlet via the regulatory body to gain reentry into the industry at our property. With all due respect, if the regulatory structure and procedure in horse racing was doing a good job at maintaining the appearance of complete integrity, we would not be under the microscope we're all currently under. Taking away the racetracks as the last line of defense will only exacerbate this pre-existing problem.

Furthermore, the first recommended decision regarding the ejection of a permit holder who appealed to the WVRC was recently rendered. Part of the rationale behind the ejection was the extreme financial irresponsibility of the permit holder that, among other things, resulted in HCCTR incurring legal fees in a matter it had no direct role in whatsoever. To quote the decision:

"Moreover, where the Association incurs certain costs (like attorneys' fees) or expends resources related to its inclusion in a lawsuit, such costs are a part of the operation of the track and do not, alone, give rise to grounds for ejection."

There is nothing HCCTR could have done to avoid being subjected to the continual outlay of money in a matter it had no role in other than ejecting the permit holders from its property. Carrying this out to its logical conclusion, the WVRC is opining that attorneys' fees are a cost of doing business for HCCTR, but they also have the ultimate say as to who is on our grounds and who we have to do business with. We're being told that we can't take, in some cases, our only step to avoid litigation? It's a cost of doing business, but we don't control the ultimate destiny of the business relationship? It's not equitable.

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Compounding matters is the considerable drain on both private and governmental resources that are being committed in furtherance of these appeals. Holding full blown hearings for every business decision HCCTR makes that results in a private property ejection, complete with a hired hearing examiner and court reporter, pages of written decisions rendered and hours upon hours of legal preparation. Imagine if the resources expended by the WVRC on these proceedings could be redirected to necropsies on deceased horses, more advanced testing research or something that benefited the masses? It would be far more valuable in preserving the uprightness of our industry than expending it on examining the cases of people that a heavily invested party has already deemed contrary to the best interests of the sport's integrity.

HCCTR supports an alteration to the currently proposed Rules of Racing to amend Rule 6.1 to read as follows:

6.1. Any person ejected by the stewards or the association from the grounds of an association shall be denied admission to the grounds until permission for his or her reentry has been obtained from the association and the Racing Commission.

VI. Penalizing the Horse

While trainers are penalized through a suspension or fine, one of the most flagrant shortcomings of our penalty and deterrence framework is not revealed until after the suspension or fine is rendered. When a trainer is suspended, horses are often simply "transferred" into the name of another trainer, who continues on with business as usual. Our system has created a series of "transfers" that are made on paper, but nowhere else. To put it mildly, it has become a complete farce and makes a mockery of racing's justice system.

HCCTR believes an important element in weeding out unscrupulous trainers is to not only suspend the trainer from having their name in the program, but also suspending their horses from competing. Impacting the ability of horses in a trainer's name to race might be the only foolproof vehicle we have to ensure that people caught cheating do not continue onward in their capacity as the functional trainer with a root cause of the problem unaddressed. When a trainer (or owner) commits multiple medication infractions, we must explore that possibility of all of their horses being sidelined for a finite duration of time.

The counter argument that we shouldn't be "penalizing the horse" is both incorrect and shortsighted. We are not "penalizing the horse". What we are doing is not only holding trainers accountable, but also holding owners accountable for the trainers that they choose. Why should we accept the notion that owners can get off relatively unscathed even if they stick their heads in the sand as to what their trainers have done or may be doing? Employers are held liable for acts perpetrated by employees who they've hired all the time. The essence of that is in no way altered by the independent contractor nature of the owner-trainer relationship. If owners are concerned about the potential misdeeds of their trainer rendering their horses unable to compete, they should be taking greater care in performing heightened levels of due diligence when selecting one.

HCCTR has attached an example of a rubric for keeping horses out of action upon the occurrence of positive tests in a given timeframe that it would support in both spirit and substance. While we understand that neither the Model Rules nor other jurisdictions have ratified a system as penal as this, the

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WVRC has the opportunity to be the leader in addressing and correcting the problems existing in our sport. Included in these proposed Rules of Racing is a new rule that codifies the issue of horse slaughter in state regulations. We applaud the WVRC for being bold enough to put itself in line to be the first jurisdiction to have such a rule on the books. The wider used suspension of horses presents another opportunity for the WVRC to be proactive and take significant steps in punishing those who caught violating the Rules of Racing.

We welcome the opportunity to further discuss any of the aforementioned topics at the WVRC's asking. Please feel free to reach out to me if you have any questions.

Regards,



Erich Zimny
Vice President of Racing Operations

CC: Jon Amores
Kelli Talbott
Chris McErlean
Carl Sottosanti
Dickie Moore
Phyllis LeTart

With enclosures

CATEGORY "A" PENALTIES

LICENSED TRAINER		
<p>1st Offense</p> <p>Minimum one (1) year suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a three (3) year suspension</p> <p align="center">AND</p> <p>Minimum fine of \$10,000.00 or 10% of total purse (greater of the two) absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum fine of \$25,000.00 or 25% of purse (greater of the two)</p> <p align="center">AND</p> <p><u>All other horses having raced in the jurisdiction and currently under the trainer's care shall be placed on the veterinarian's list for thirty (30) days and must pass a Commission approved examination before becoming eligible to be entered</u></p>	<p>2nd LIFETIME offense in any jurisdiction</p> <p>Minimum three (3) year suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of permit revocation with no reapplication for a three (3) year period.</p> <p align="center">AND</p> <p>Minimum fine of \$25,000.00 or 25% of total purse (greater of the two) absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum fine of \$50,000.00 or 50% of purse (greater of the two)</p> <p align="center">AND</p> <p><u>All other horses having raced in the jurisdiction and currently under the trainer's care shall be placed on the veterinarian's list for sixty (60) days and must pass a Commission approved examination before becoming eligible to be entered</u></p>	<p>3rd LIFETIME offense in any jurisdiction</p> <p>Minimum five (5) year suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of permit revocation with no reapplication for a five (5) year period.</p> <p align="center">AND</p> <p>Minimum fine of \$50,000.00 or 50% of total purse (greater of the two) absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum fine of \$100,000.00 or 100% of purse (greater of the two)</p> <p align="center">AND</p> <p><u>All other horses having raced in the jurisdiction and currently under the trainer's care shall be placed on the veterinarian's list for ninety (90) days and must pass a Commission approved examination before becoming eligible to be entered</u></p>
AND	AND	AND
May be referred to the Racing Commission for any further action deemed necessary by the Commission	May be referred to the Racing Commission for any further action deemed necessary by the Commission	May be referred to the Racing Commission for any further action deemed necessary by the Commission

LICENSED OWNER		
<p>1st Offense</p> <p>Disqualification and loss of purse</p> <p align="center">AND</p> <p>Horse shall be placed on the veterinarian's list for ninety (90) days and must pass a Commission approved examination before becoming eligible to be entered</p>	<p>2nd LIFETIME offense in any jurisdiction</p> <p>Disqualification and loss of purse</p> <p align="center">AND</p> <p>Horse shall be placed on the veterinarian's list for one hundred twenty (120) days and must pass a Commission approved examination before becoming eligible to be entered</p> <p align="center">AND</p> <p><u>All other horses having racing in the jurisdiction and currently owned by the stable shall be placed on the veterinarian's list for sixty (60) days and must pass a Commission approved examination before becoming eligible to be entered.</u></p>	<p>3rd LIFETIME offense in any jurisdiction</p> <p>Disqualification, loss of purse and \$50,000.00 fine</p> <p align="center">AND</p> <p>Horse shall be placed on the veterinarian's list for one hundred eighty (180) days and must pass a Commission approved examination before becoming eligible to be entered</p> <p align="center">AND</p> <p><u>All other horses having racing in the jurisdiction and currently owned by the stable shall be placed on the veterinarian's list for ninety (90) days and must pass a Commission approved examination before becoming eligible to be entered.</u></p>
		AND
		Referral to the Commission with a recommended minimum suspension of ninety (90) days.

CATEGORY "B" PENALTIES

LICENSED TRAINER		
<p>1st Offense (365 day period in any jurisdiction)</p> <p>Minimum fifteen (15) day suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a sixty (60) day suspension</p> <p style="text-align: center;">AND</p> <p>Minimum fine of \$500.00 absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum fine of \$1,000.00</p> <p style="text-align: center;">AND</p> <p>May be referred to the Racing Commission for any further action deemed necessary by the Commission</p>	<p>2nd Offense (365 day period in any jurisdiction)</p> <p>Minimum thirty (30) day suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a one hundred eighty (180) day suspension</p> <p style="text-align: center;">AND</p> <p>Minimum fine of \$1000.00 absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum fine of \$2,500.00</p> <p style="text-align: center;">AND</p> <p>May be referred to the Racing Commission for any further action deemed necessary by the Commission</p>	<p>3rd Offense (365 day period in any jurisdiction)</p> <p>Minimum sixty (60) day suspension absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum of a one (1) year suspension</p> <p style="text-align: center;">AND</p> <p>Minimum fine of \$2,500.00 absent mitigating circumstances. The presence of aggravating factors could be used to impose a maximum fine of \$5,000.00 or 5% of purse (greater of the two)</p> <p style="text-align: center;">AND</p> <p><u>All other horses having raced in the jurisdiction and currently under the trainer's care shall be placed on the veterinarian's list for thirty (30) days.</u></p>
		AND
		May be referred to the Racing Commission for any further action deemed necessary by the Commission

LICENSED OWNER		
<p>1st Offense (365 day period in any jurisdiction)</p> <p>Disqualification and loss of purse in the absence of mitigating circumstances</p> <p style="text-align: center;">AND</p> <p><u>Horse shall be placed on the veterinarian's list for fifteen (15) days and</u> Horse must pass a Commission approved examination before becoming eligible to be entered</p>	<p>2nd Offense in stable (365 day period in any jurisdiction)</p> <p>Disqualification and loss of purse in the absence of mitigating circumstances</p> <p style="text-align: center;">AND</p> <p>Horse must pass a Commission approved examination before becoming eligible to be entered</p>	<p>3rd Offense in stable (365 day period in any jurisdiction)</p> <p>Disqualification, loss of purse and in the absence of mitigating circumstances a \$5,000.00 fine</p> <p style="text-align: center;">AND</p> <p>Horse shall be placed on the veterinarian's list for forty five (45) days and must pass a Commission approved examination before becoming eligible to be entered. <u>All other horses having raced in the jurisdiction and currently owned by the stable shall be placed on the veterinarian's list for thirty (30) days.</u></p>

CATEGORY "C" PENALTIES

LICENSED TRAINER		
LICENSED TRAINER	Phenylbutazone (>2.0-5.0 mcg/ml) Flunixin (>20-100 ng/ml) Ketoprofen (>10-50 ng/ml) Furosemide (>100 ng/ml) and/or no furosemide when identified as administered	Phenylbutazone (>5.0 mcg/ml) Flunixin (>100 ng/ml) Ketoprofen (>50 ng/ml) CLASS C VIOLATIONS
1st Offense (365-day period in any jurisdiction)	Minimum of a written warning to a maximum fine of \$500.00	Minimum fine of \$1,000.00 absent mitigating circumstances
2nd Offense (365-day period in any jurisdiction)	Minimum of a written warning to a maximum fine of \$750.00	Minimum fine of \$1,500.00 and 15-day suspension absent mitigating circumstances. <u>All horses having raced in the jurisdiction and currently under the trainer's care shall be placed on the veterinarian's list for fifteen (15) days.</u>
3rd Offense (365-day period in any jurisdiction)	Minimum fine of \$500.00 and to a maximum fine of \$1,000.00.	Minimum fine of \$2,500.00 and 30-day suspension absent mitigating circumstances. <u>All horses having raced in the jurisdiction and currently under the trainer's care shall be placed on the veterinarian's list for thirty (30) days.</u>

LICENSED OWNER		
LICENSED OWNER	Phenylbutazone (>2.0-5.0 mcg/ml) Flunixin (>20-100 ng/ml) Ketoprofen (>10-50 ng/ml) Furosemide (>100 ng/ml) and/or no furosemide when identified as administered	Phenylbutazone (>5.0 mcg/ml) Flunixin (>100 ng/ml) Ketoprofen (>50 ng/ml) CLASS C VIOLATIONS
1st Offense (365-day period in any jurisdiction)	Horse may be required to pass a Racing Commission approved examination before being eligible to run	Loss of purse. Horse must pass Racing Commission approved examination before being eligible to run
2nd Offense (365-day period in any jurisdiction)	Horse may be required to pass a Racing Commission approved examination before being eligible to run	Loss of purse. <u>All horses having raced in the jurisdiction and currently owned by the stable shall be placed on the veterinarian's list for fifteen (15) days. If same horse, placed on veterinarian's list for 45 days, must pass Racing Commission approved examination before being eligible to run.</u>
3rd Offense (365-day period in any jurisdiction)	Disqualification and loss of purse. Horse must pass Racing Commission approved examination before being eligible to run.	Loss of purse. Minimum \$5,000.00 fine. <u>All horses having raced in the jurisdiction and currently owned by the stable shall be placed on the veterinarian's list for thirty (30) days. If same horse, placed on veterinarian's list for 60 days, must pass Racing Commission approved examination before being eligible to run.</u>

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July 21, 2012

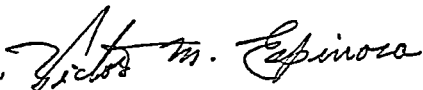
Attorney General's
Office

Dear Racing Commissioners,

My name is Victor Espinosa and I am writing this letter in regards to the WV Rule of Racing Rule 178-1-24.1.g which states, "The Racing Commission shall not grant an occupational permit to anyone under eighteen (18) years of age. An applicant may be required to submit a certified copy of his or her birth certificate in connection with his or her application for a permit" to which is open for public comment.

I totally disagree with the new rule. I believe that a teenager should be able to work in the barn area at the track if they can obtain a work permit just as any teen can in the state of WV. I believe that if a teen can get a driving permit at age 15 and drive in traffic with an adult as well as the age of 16 and driving alone with responsibility then why wouldn't they be aloud to have a WV State regulated license at Charles Town? Why can you have a license to work at the dog track but not horseracing? There are many options available to regulate ways of allowing 16 and 17 years old to be license. Work permits and a 2.0 average in grades would be a great qualification for obtaining this license as well as having an adult sign for this youth. I have done research and called the Racing Commissions in the states of Maryland, New York, Pennsylvania, Florida, and Kentucky and the age of licensing on the backstretch begins at 16. Virginia has the exception of allowing you to have a work permit at 15. Anyone who knows horseracing and has grown up around horseracing knows that the backstretch families rely upon their families for their business for help. Just as dairy farmers and crop farmers in the world, family plays a big part. I have been involved in horseracing since I was 15. I began riding at the age of 16 in Mexico City where I met my wife who was with her father and family who was there with their stable. My wife's father was a horse trainer who then returned to Charles Town to train horses because of my wife's family being from this area. I migrated to Charles Town as well. I was a jockey for 26 years and have been training horses for about 30 years. All of my children have been licensed at Charles Town since they were 16. We have been taught responsibility of taking care of my family's lively hood as well as the business aspects. I can honestly say that being raised around the racetrack has only been positive learning experience on all of us growing up. My daughter Michelle Geris ponied horses(age 16 and up), was the State Veterinarian's assistant (age 17)to which she escorted horses to the test barn, has been a hair stylist for 23 years and now is the License Clerk at Charles Town. My son Victor Espinosa Jr. was a hot walker during the summer s starting at age 16 and also was the State Veterinarian's assistant during high school and college and now has become Vice President for Equibase Company which is associated with the Jockey Club. My other son Paul also was a pony person as a teenager for my racing stable and later graduated from WV Wesleyan Magnum Cum Laude. He went on to become Director of Publicity for Charles Town Races in the late 80's. He now is General Manager of Frontier Communications in Eastern West Virginia. And lastly, my daughter Melinda

Espinosa worked for me at my stable since 16 and went on to become James Casey's Assistant Trainer. She now is Office Manager of a nephrologist's office in Winchester, Va. I can only say by fact that this proves that growing up in the barn area and around horseracing and gambling does not harbor or inhibit goals or quality of their life. My granddaughter, Gabrielle Geris wants to become a Veterinarian on the track of Charles Town. It benefits her to know the daily operations of how horses are taken care of and their ailments as well as the responsibility of caring for racehorses. She wishes to get her work permit through her school and work at the track with a veterinarian and shadow with them and learn about their jobs. This new rule will refrain her from being able to groom her to prepare for college and becoming the best she can be at this occupation. Just as farmer and their kids participating in the county fair with cows, hogs, goats, etc., they also take the risk of these animals kicking them, running over them and biting. It's all apart of good ole American Pie. This is what American was based on. Taking away getting a stable help license at the age of 16 helps break the cycle of generations of horseracing families. Horseracing depends on the continuation of horseracing in this country by the generations of families taking over the family business. If it was up to these tracks that have table games and slots, they would want to do away with horseracing all together and just have the casino. This would lead to all of us being out of jobs. This would be one more nail in the coffin if you allow these companies who want gaming only to break the cycle of mentoring of youths. I hope you will understand the need for families and youths in horseracing. I also hope that you will consider revising the Rule of Racing 178-1-24.1.g and allowing the age for licensing to be 16. I can understand that children younger than this be restricted in the barn area but if a teenager can obtain a permit to drive at the age of 15 and get their drivers license at 16, then the Racing Commission should follow accordingly with the state wide laws and allow teens to be licensed through the WV Racing Commission.

Sincerely, 

Victor M. Espinosa Sr.

From: Maria Catignani [mailto:mcthbpa@yahoo.com]
Sent: Monday, August 13, 2012 3:11 PM
To: Amores, Jon
Cc: Kelli Talbott; Charles Town HBPA
Subject: Public Comments

TB046

HBPA-CT

Received 08/13/2012 1511



Jon:

Please accept this attachment as the Charles Town HBPA's public comments to the proposed Thoroughbred Rules of Racing.

Thank you.

Maria A. Catignani
Executive Director
Charles Town HBPA
835 E. Washington St. #106
Charles Town, WV 25414

304-725-1535 office
304-886-1272 cell



CHARLES TOWN

HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION, INC.

PO BOX 581

CHARLES TOWN, WV 25414

PHONE (304) 725-1535 FAX (304) 728-2113

E-MAIL cthbpa@yahoo.com

August 13, 2012

Jon Amores
Executive Director
West Virginia Racing Commission
106 Dee Drive, Suite 2
Charleston, WV 25311

Dear Executive Director Amores:

Enclosed are the comments offered by the Charles Town Horsemen's Benevolent and Protective Association (H.B.P.A.) in relationship to the proposed amendments to Title 178, Series 1, Thoroughbred Racing, filed with the office of the West Virginia Secretary of State and noting a return date on all comments of not later than August 13, 2012.

As you know, the Charles Town H.B.P.A. represents the interests of nearly 3,000 horsemen – owners and trainers of horses that race at Charles Town Races. The purposes of the organization include the promotion of the sport of thoroughbred horse racing; protecting the general welfare of the racing industry, the interests of horsemen and their employees, families and backstretch

personnel; bringing about greater understanding between the often competing interests of horsemen, racing associations and the WV Racing Commission; working with the track owners, horsemen, the Racing Commission and all interested parties in the establishment of proper rules and conditions that affect horsemen, their employees and backstretch personnel; and to represent all horsemen's interests and property rights in dealing with racing associations.

Because the Charles Town H.B.P.A. plays such an all-encompassing role in the equine industry in the Eastern Panhandle of West Virginia, the proposed draft rule will have an enormous impact on the daily workings of horse breeders, trainers, veterinarians, jockeys, exercise riders, groomers and so many more. We believe it to be essential that the Racing Commission recognize the sincerity of horsemen in their desire to have reasonable and clear laws, rules and regulations governing their industry.

Therefore, we offer the following comments on behalf of all horsemen associated with the Charles Town H.B.P.A. to encourage the development of regulations that are effective and practical, but which do not unnecessarily or excessively reach beyond these bounds.

Comment #1 - We request the age required to obtain an occupational permit be reinstated to 16 years of age.

Draft Thoroughbred Racing 24.1.i states:

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

The Charles Town H.B.P.A. requests that the minimum age required to obtain an occupational permit from the Racing Commission be returned to sixteen years of age for the following reasons:

1. A 16 year old is legally permitted to be employed in the State of West Virginia. Seasonal employment of young adults is an important component of family income for most West Virginia families. Horse industry families should not be deprived of this opportunity.
2. The age requirement of 18 is inconsistent with the West Virginia rules of Greyhound Racing, 178CSR2, which state, “*23.2 No racing association may employ, in any capacity, an individual less than sixteen (16) years of age.*” Further, the Association of Racing Commissioners International (ARCI), which encourages uniform regulation in an effort to protect and uphold the integrity of racing, requires a minimum age of 16 when applying for an occupational permit (ARCI-008-010).
3. There is a strong sense of tradition, especially within family structures, associated with horse breeding, training, etc. The young people who are employed at the age of 16 by the horse community have likely been handling horses since early childhood. They seek to obtain employment because it’s an industry they know and love. In many cases it is an inherent trait to follow the family tradition. Employers most often seek the assistance of younger individuals, not because they are short handed, but because of their energy, enthusiasm, reliability and sincere interest in the industry. This is not different from so many young people working in family operated agricultural enterprises such as Christmas tree farming, produce production or raising livestock in a 4-H program for ultimate show and sale purposes.
4. To deprive young adults in Jefferson County, West Virginia, where horse racing was first organization in 1787 by Charles Washington, brother of George Washington, of the opportunity to learn and apply skills in the horse racing industry, by far the largest employer in Jefferson County by

industry, is to effectively deny those young adults to be part of the very fiber of the community in which they have been raised. Rather than discourage the next generation from being a part of perpetuating that which is so much a part of the culture and tradition of Jefferson County, West Virginia, we should instead convey the importance of the horse community to our youth by encouraging the involvement of young people who have a knowledge and passion for the horse industry. We should not adopt policies which discourage fostering the development of the next generation of stewards, racing officials, jockeys, trainers, owners, breeders and exercise riders.

5. Much like student interns whose ultimate goal is knowledge of a certain profession, the young adults who wish to learn more about the equine industry seek employment in the horse community. The work experience teaches these apprentices not only about proper care and treatment of horses, but also important qualities such as dedication, perseverance, leadership and compassion. In addition, in exchange for a hands-on learning experience, young adults are often willing to work at a reduced salary, making hiring young people more economically feasible for struggling farms. More importantly, these young people are the next generation of owners, breeders, trainers, jockeys, exercise riders, stewards and racing officials.
6. There is no factual evidence showing that a 16 year old employed by the racing industry is at greater risk of not completing his or her education. Additionally, guidelines specified in law associated with the employment of minors have been and will continue to be followed. These would include proof of age.
7. In order for a jockey to be competitive with those training in other states, it is essential for West Virginia jockey apprenticeships to begin before the age of 18. By reducing opportunities to learn the skills necessary to become a successful jockey at age 18 and utilize those skills during the prime production years of a jockey's career, West Virginia loses a most

important component of racing. Failure to cultivate new jockeys on a timeline consistent with the national horseracing industry could lead to a significant problem in filling race cards, not to mention demise in the quality of horse racing offered in West Virginia. As competitive as horse racing is as an industry throughout our country, West Virginia needs not, by policy, to render the West Virginia industry less competitive.

Comment #2 - We request removing subdivisions 24.11.p and 24.11.q from the West Virginia Rule of Thoroughbred Racing.

Draft Thoroughbred Racing 24.11 lists the following as grounds for the suspension or revocation of an occupational permit:

24.11.p. [Permit holder] has knowingly, or without conducting proper due diligence, sold a horse for slaughter, directly or indirectly;

24.11.q. [Permit holder] has abandoned, mistreated, abused, neglected or engaged in an act of cruelty to a horse.

Horsemen have a deep and abiding respect for the horse, thus the topic of slaughter is emotionally charged as it conflicts with ethical, moral, and financial responsibilities. Many of these equine athletes have provided not just an income, but also companionship for owners and trainers, so when the time comes for retirement of these animals, the decision is difficult and painful.

Once it is determined that a horse no longer has a career as a thoroughbred racehorse, the best case scenario is for the animal to be placed in a new vocation in a related equine sport or program. Scores of horses are retrained and successfully participate in dressage, jumping, steeplechase, and show. Some animals are repurposed for equine therapeutic programs that benefit children and adults, prison inmates and war veterans. Others go to new owners and/or their children who are interested in raising and caring for a horse.

Unfortunately, not all horses are suited for a second career. Problems with purposeful placement ensue when a home just can't be found. The reasons for this are varied. Some horses just don't have a suitable disposition. These are animals that are difficult to train and are dangerous. Others are so badly injured and broken down that there just isn't a career where the horse can provide a useful service. Then there is that horse that was purchased with good intentions, perhaps for the "romantic" notion of horse ownership, recreational use, or to teach a child responsibility. The owners thought horse ownership was a great idea until they experienced the costs associated with feed, board, veterinarian, and other costs associated with horsemanship.

It is these animals that are at the most risk of abuse and neglect, which happens when an owner cannot find a safe home for the animal, and can no longer afford to provide for food and shelter. In the winter, animals stand in pastures that are barren. The ability of the owner to provide grain, hay and water to the horse may have passed. At minimum, proper board for a horse begins at approximately \$10 per day plus. Additionally, approximately 25 pounds of hay daily and a water source must be provided. Because owners are financially distressed, but fearful to send horses to auction, many horses are left to stand in fields and eventually starve to death. While horsemen may have every intention of properly providing for an animal, if it becomes a matter of feeding his or her family or feeding his or her horse, the choice will be to feed one's family.

Therefore, the Charles Town H.B.P.A. requests that subdivisions (p) and (q) be stricken in their entirety for the following reasons:

1. No other state has rules in place that would suspend or revoke a permit for the reasons stated in subdivisions (p) and (q). West Virginia would become a total outlier in this regard.

2. While the majority of horsemen strongly advocate for the humane treatment of animals, they also firmly believe they have a legal right to sell/dispose of their property as they see fit, including their livestock.
3. Rescue/adoption/rehabilitation programs that are reputable and financially sound are struggling with placing the excess of horses that need homes. Horsemen legitimately try for months to get their horses placed with these organizations to no avail.
4. Previous owners should not be held accountable for the recent mistreatment of a horse they sold to good home many years ago. If a person sells a used automobile and the purchaser subsequently sells it to another person, the original owner is not liable to the last purchaser for dents and mechanical problems caused by the intervening owner. Original ownership of a horse should not be a guarantee against the acts of bona fide subsequent owners of a horse.
5. Charles Town Races donates funds to an equine retirement program and have a house rule regarding loss of stalls for instances of mistreatment. Additionally, horsemen are charged a \$2 fee per start which is distributed for horse retirement purposes.
6. Horses are livestock, which are animals kept or raised for use and profit. Not unlike cattle, sheep or chickens, as the livestock matures, their purposes change and ultimately they become non-productive.

Senate Bill 75, Creating Equine Rescue Facilities Act, passed during the 2011 Legislative Session. We believe regulating rescue facilities is a positive step in the right direction of ensuring the humane treatment of horses. However rescue facilities that are licensed and financially sound are limited. For this reason the Charles Town H.B.P.A. wholeheartedly supports the creation of a state-funded racehorse transition program that would help eliminate the need for horsemen to bear the heavy emotional and financial burden of properly disposing of retired animals.

Comment #3 - We request the allowable threshold concentration related to Phenylbutazone be reinstated to 5 micrograms per millimeter.

Draft Thoroughbred Racing 49.6.a states:

49.6.a. The use of one (1) or three (3) approved NSAIDs shall be permitted under the following conditions:

49.6.a.1. Not to exceed the following permitted serum or plasma threshold concentrations

49.6.a.1.A. Phenylbutazone (or it's metabolite oxyphenylbutazone) – 5 2 micrograms per milliliter

The Charles Town H.B.P.A. requests that the phenylbutazone threshold concentrations be returned to 5 micrograms per milliliter for the following reasons:

1. Phenylbutazone (Bute) is a pain relieving medication commonly used for the treatment of lameness in horses. It is non-steroidal anti-inflammatory similar to Tylenol.
2. Bute is classified by the ARCI as a Class 4 drug; meaning is considered to be a “therapeutic medication with less ability to affect performance than Class 3 drugs.”
3. There is no scientific evidence that the current level of 5 micrograms per milliliter of Bute affects prerace exam accuracy.
4. The scientific community is not unanimous in its opinion of Bute's impact on athletic performance at the 5 micrograms per milliliter threshold.
5. The 5 micrograms per milliliter threshold provides a safety margin to avoid inappropriate positives.

This concludes the Charles Town H.B.P.A. comments on Legislative Rule 178 CSR 1, Thoroughbred Racing. We appreciate the opportunity to provide these comments to the West Virginia Racing Commission and are hopeful that they will be given due consideration, as they are made in the best interest of horses, horsemen and the West Virginia horse racing industry.

Respectfully submitted,

Kenneth F. Lowe
President

RESPONSE TO THE COMMENTS

THOROUGHBRED RACING 178 CSR 1

The Commission received forty-six comments upon the Thoroughbred Racing Rule, 178 CSR 1, that was out for comment during the period July 11, 2012 to August 13, 2012. A few of the comments had multiple signatories to them.

BACKGROUND

The proposed amendments to the Thoroughbred Racing Rule that precipitated the undertaking of a public comment period are part of the evolution of the Thoroughbred Racing Rule that began in late 2009. A total re-write of the Thoroughbred Racing Rule was undertaken by the Commission and passed by the Legislature in 2011. The re-write was necessitated by years of neglect which resulted in a rule that was not current with industry standards. This neglect pre-dated the tenure of the current Commissioners.

Industry standards, particularly with regard to the regulation of medications and foreign substances in thoroughbred racehorses, have been changing at a rapid pace as new science and integrity measures have emerged. In order to keep pace with these emerging standards, regular periodic reviews of the rule are necessary. It is against this backdrop that the Commission began the process of looking at the rule in late 2011/early 2012, with an eye toward the 2013 legislative rule-making cycle.

As it did with the 2011 re-write of the rule, the Commission convened a constituent committee which was made up of representatives from the following organizations: The Charles Town Horsemen's Benevolent and Protective Association, the Mountaineer Horsemen's Benevolent and Protective Association, Charles Town Racetrack, Mountaineer Racetrack, the Jockeys' Guild, the West Virginia Thoroughbred Breeders Association, the Commission's Chief Stewards from Charles Town and Mountaineer, and two State veterinarians, one from Charles Town and one from Mountaineer.

As a result of the committee's deliberations, recommendations for rule amendments were made to the Commission at its April 13, 2012 public meeting in Charles Town. At that time, the Commission voted to put several amendments to the rule out for public comment. After receiving Secretary Charles Lorensen's signature, the rule was put out for a public comment beginning on July 11, 2012 and ending on August 13, 2012.

PHENYLBUTAZONE THRESHOLD

The Commission received public comments both in support of and adverse to the proposed amendment that would lower the phenylbutazone threshold in the rule from 5 mg per milliliter to 2 mg per milliliter. Phenylbutazone is a non-steroidal anti-inflammatory that is given to horses to reduce pain. After considering the public comments, the Commission believes that lowering the phenylbutazone threshold is warranted. The following is an explanation as to why the change is warranted.

The West Virginia Racing Commission is a member of the Association of Racing Commissioners International (RCI), an organization that is composed of governmental regulators of horse and dog racing in the United States and internationally. RCI has a network of resources and experts in all aspects of racing that assist it in promulgating “Model Rules.” The RCI Model Rules are the result of decades of collective collaboration of the racing regulatory commissions in consultation with the public and affected industry participants. The Model Rules set a standard for integrity in horse and greyhound racing. The RCI Model Rule sets the threshold for phenylbutazone at 2 mg per milliliter. This means that if a horse is tested immediately following a race at a racetrack, it cannot have more than 2 mg per milliliter of phenylbutazone in its system – otherwise it is a violation of racing rules and the trainer of the horse (and perhaps others) are subject to penalty.

RCI changed its Model Rule for phenylbutazone from 5 mg to 2 mg in late 2010, when the Commission was too far along in its re-write for the 2011 legislative session to consider this change. So, in the constituent committee’s deliberations for the 2013 rule-making cycle, this proposed change to bring our rule in alignment with the RCI Model Rule was put forth.

Why did RCI change the Model Rule on phenylbutazone? The answer to that question is important and supports the corresponding change to West Virginia’s rule. In approximately April 2010, the Scientific Advisory Committee of the Racing Medication Testing Consortium (RMTC) determined that the phenylbutazone threshold should be lowered to 2 mg. The RMTC is an organization made up of industry stakeholders that are dedicated to scientific research and educational programs that seek to ensure the integrity of racing and the welfare of thoroughbred racehorses. The RMTC determined that the higher threshold was detrimental to the welfare of thoroughbreds because of the legitimate concerns of regulatory veterinarians. The regulatory veterinarian (or what we commonly call the “State Veterinarian”) is the veterinarian employed by the West Virginia Racing Commission to determine whether a horse is fit to compete or not through a pre-race examination or inspection. That inspection typically is done the morning of or several hours prior to a race. Regulatory veterinarians from various racing jurisdictions expressed to the RMTC that it was difficult to perform an accurate assessment if a horse was under the pharmacologic influence of phenylbutazone and other non-steroidal anti-inflammatories. Inasmuch as regulatory veterinarians look for things such as heat, pain, swelling and inflammation during pre-race inspections and inasmuch as such symptoms or conditions were mitigated by the effects of phenylbutazone, regulatory veterinarians were hampered in assessing a horse’s condition. In other words, phenylbutazone can mask injuries. Therefore, the regulatory veterinarians expressed that a lower threshold was warranted.

In late 2010, the Board of Directors of RCI voted 16 to 0 in favor of lowering the threshold level for phenylbutazone from 5 mg/ml to 2 mg. The RCI’s Model Rules Committee suggested lowering the threshold for phenylbutazone—also called bute—to the board based on a recommendation by the RMTC and recommendations from the following other major stakeholders in the racing industry: the RCI Regulatory Veterinarians Committee, the RCI Drug Testing and Standards and Practices Committee, the Jockey Club’s Thoroughbred Safety Committee, the Jockey’s Guild, the Thoroughbred Owners and Breeders Association (TOBA) and the American Association of Equine Practitioners (AAEP).

The vast majority of racing jurisdictions in the United States have followed the lead of RCI and have adopted a 2 mg threshold. West Virginia lags behind on this important integrity and welfare policy. Therefore, the constituent committee designated to look at amendments to the rule for the 2013 rule-making cycle, took up this issue. The majority of the committee (which included two State Veterinarians and one practicing equine veterinarian who treats horses on West Virginia's racetracks) decided to recommend to the Commission a rule change to 2 mg.

The fact that the levels of phenylbutazone in horses on West Virginia racetracks is a significant problem is borne out by a study that was presented to RCI by the Jockey Club in April 2012. Since 1894, the Jockey Club has been the breed registry for North American thoroughbreds. The Jockey Club supports and maintains a number of racing industry initiatives to advance racing integrity and the welfare of thoroughbreds. The Jockey Club's presentation to RCI showed that for the period 2005 through 2011, West Virginia had, unequivocally, the highest number of rulings issued against permit holders for violations of its phenylbutazone rule. (See attached Exhibit 1.) And, this occurred during a period where West Virginia's rule threshold is at its current, high 5 mg level. From 2005 to 2011, the West Virginia Racing Commission issued 408 rulings against permit holders whose horses exceeded the 5 mg threshold in post-race testing. The next "closest" racing jurisdiction was California with 208 rulings. Pursuant to the Jockey Club's figures, West Virginia is, unfortunately, the poster-child for too many horses racing with high levels of the pain medication, phenylbutazone, in their systems. This is bad for racing in West Virginia and, it is dangerous.

At a time when thoroughbred racing is under considerable scrutiny by the national media, concerned industry stakeholders, and the United States Congress for its regulation (or lack thereof) of medications in racehorses, it is not the time for West Virginia to continue to lag behind with the higher threshold of phenylbutazone. To leave the phenylbutazone threshold at 5 mg is to leave West Virginia in the backwaters of racing. It is hoped that by increasing the penalties for medication violations and lowering the acceptable threshold for phenylbutazone, West Virginia can get a handle on the phenylbutazone problem that is starkly demonstrated by the Jockey Club's statistics. West Virginia's high number of phenylbutazone positives cannot be explained away by the argument that we have year-round racing in this state and that such year-round racing accounts for the high number. Other states in the Jockey Club's survey have year-round racing or a comparable number of race days per year. Yet, West Virginia stands in stark contrast with other racing jurisdictions that have far fewer phenylbutazone positives.

INCREASED PENALTIES FOR MEDICATION RULE VIOLATIONS

The Commission received supportive comments for its increase in fines and permit suspensions/revocations for permit holders who are found to have violated the medication rules for horses. There were no comments opposed to this increase. The increases in penalties puts West Virginia's rule in complete agreement with RCI's Model Rule penalty guidelines.

The punishments meted out by racing commissions for medication rule violations have come under increased scrutiny of late. In July of this year, the United States Committee on Commerce, Science and Transportation, chaired by Senator Jay Rockefeller, had a hearing on medications and

performance enhancing drugs in horse racing. The hearing can be viewed by accessing the following link on the internet:

http://commerce.senate.gov/public/index.cfm?p=Hearings&ContentRecord_id=962520f8-4154-444a-b555-f5a2bc9da2ab&ContentType_id=14f995b9-dfa5-407a-9d35-56cc7152a7ed&Group_id=b06c39af-e033-4cba-9221-de668ca1978a

That committee has jurisdiction, so to speak, regarding horse racing inasmuch as it has jurisdiction over the Interstate Horseracing Act which allows racetracks around the country to have the benefit of simulcasting their racing signals and accepting interstate wagers. A bill has been introduced in Congress to amend the Interstate Horseracing Act to require the states to impose certain penalties for medication violations as a condition to allowing simulcasting and accepting interstate wagers.

A central focus of the hearing was framed by Senator Tom Udall of New Mexico who stated as follows: "State racing commissions routinely impose small fines and short suspensions. There is minimal deterrence. And chronic doping continues unabated." Senator Udall's full statement can be accessed at:

http://commerce.senate.gov/public/index.cfm?p=Hearings&ContentRecord_id=962520f8-4154-444a-b555-f5a2bc9da2ab&Statement_id=e2147752-8665-40d7-956d-90041ccb08d5&ContentType_id=14f995b9-dfa5-407a-9d35-56cc7152a7ed&Group_id=b06c39af-e033-4cba-9221-de668ca1978a&MonthDisplay=7&YearDisplay=2012

It is against this backdrop that West Virginia seeks to increase its penalties for medication violations. Moreover, an April 2012 Jockey Club presentation to RCI contained this compelling statistic: For the period 2005-2011, West Virginia was one of five racing states that had the most repeat offenders for medication and drug rule violations. (See attached Exhibit 2.) Taking West Virginia out of this infamous company is a legitimate regulatory goal to which the Racing Commission aspires. Increasing the penalties for medication and drug rule violations is a way to address this.

It should also be noted that the penalties that will be increased in the most significant amounts are for substances that should never be found in a horse. The highest fine and lengthiest suspension proposed in the rule are for those permit holders who have a *third* offense for a substance that should never, *ever* be found in a horse. The permit holders connected with any horse that tests positive for snake venom, frog juice, sea urchin venom, etc., deserve the harshest of punishments and do not, frankly, deserve the regulatory empathy of the West Virginia Racing Commission. Increasing the penalties for medication/substance violations in the rule to bring it into agreement with the RCI Model Rule is the right thing to do to advance integrity in West Virginia racing. The Commission is appreciative of the supportive comments for this rule advancement and believes that it is warranted.

ADJUNCT BLEEDER MEDICATIONS

The Commission received public comments from the Jockey Club, the AAEP and 153 persons who signed a petition in support of eliminating adjunct bleeder medications. Commenting against the elimination was a veterinarian from Ranson, West Virginia and the Mountaineer Horsemen's Benevolent and Protective Association (MHBPA). Adjunct bleeder medications are administered to horses on race day in connection with the administration of Lasix, an anti-bleeder medication.

The RCI Model Rule does not allow the administration of adjuncts on race day. Furthermore, in connection with the intense national debate that is underway about medications in horse racing, there has been very intense debate about the subset of medications that are actually allowed to be administered to a horse on race day. Currently, in almost every racing jurisdiction in the country, the *only* medication that is allowed to be administered on race day is Lasix. Lasix is a drug given to horses around four hours prior to a race to stem exercised induced pulmonary hemorrhage (EIPH). EIPH or "bleeding" in the lungs is a condition that is found in some horses and is caused by the exertions undertaken in training and racing. West Virginia not only allows Lasix to be administered on race day, it also allows administration of certain adjunct medications in connection with Lasix. West Virginia is in the distinct minority of jurisdictions that allow adjuncts. Indeed, if West Virginia does not prohibit adjuncts in this rule-making cycle, it may very well be the last racing jurisdiction in the United States that allows the administration of adjuncts on race day.

What is the basis for the disallowance of adjuncts? In a word: science. In 2008, a definitive study was funded by the RMTC on the efficacy of adjuncts. The results of the study can be read at: http://www.rmtcnet.com/content_research.asp. This is the study's conclusion:

Conjugated oestrogens and ACA are currently used on racetracks in an attempt to control EIPH. However, the scientific evidence herein does not justify their use. Specifically, neither of these treatment strategies significantly decreased EIPH, and there is a potential for negative sequelae such as microvascular thrombi, increased bleeding and even decreased performance (ACA). These results are extremely important with regards to official standardization and use decisions of scientifically proven race-day medications across race tracks nationwide by racing jurisdictions and the Racing Medication Testing Consortium

In July 2011, The National Horsemen's Benevolent and Protective Association (NHBPA), of which the Charles Town HBPA and the Mountaineer HBPA are affiliates, endorsed the elimination of adjuncts in all racing jurisdictions. Indeed, every major racing constituent organization in the country has endorsed their elimination. The major reason that was previously advanced by certain parties in support of the administration of adjuncts (that they decrease EIPH and do not harm the horse) has been completely debunked by the RMTC study. There is simply no reason to continue to allow adjuncts under West Virginia's Thoroughbred Racing Rule. Therefore, the Commission believes that the elimination of adjuncts in the rule is warranted.

ANTI-SLAUGHTER RULE

The Commission received both positive and negative comments about its proposed rule which would allow it to discipline permit holders who knowingly or without conducting due diligence sell a horse to slaughter directly or indirectly. All of the negative comments were from horse owners/trainers.

It is an unfortunate dirty little secret that many thoroughbreds that are no longer competitive are sold to be slaughtered in Canadian and Mexican slaughterhouses. There are currently no slaughterhouses that slaughter thoroughbreds in the United States although federal law does not prohibit the operation of such slaughterhouses. Some states have statutes that prohibit the same. Canadian and Mexican slaughterhouses sell horse meat for dining opportunities in foreign countries where horse flesh is consumed. The proposed rule change was put forth by the Commission and supported by track management officials in West Virginia.

In part, the opposition to this rule centers around the argument that horse owners have a “constitutional right” to slaughter their own horses. There is no such right enshrined in either the Constitution of the United States or the State of West Virginia. Indeed, to the extent that such argument centers around some notion that a horse is property that can be treated or disposed of in whatever way a person wants, there are limitations placed every single day by West Virginia’s Thoroughbred Racing Rule on what can be done to a horse that runs on West Virginia’s racetracks.

A permit holder can’t give any drug that they want to their “property” if it runs on a West Virginia racetrack. The Commission regulates what drugs or substances can and can’t be administered to such “property.” You cannot race a horse if it has horseshoes with toe grabs over a certain size. So, the Commission effectively limits the type of shoes that permit holders can put on their “property.” There are numerous examples that could be given as to how the Commission effectively regulates what permit holders can and cannot do with their “property” that happens to race on West Virginia racetracks. It’s the price you pay for deriving the benefit of racing thoroughbred racehorses in activities upon which pari-mutuel wagering is legalized and from which the State of West Virginia derives revenue. Therefore, there is no “legal” basis upon which the Commission is prohibited from having the rule in question.

So, why have this rule from a policy standpoint? The inhumane slaughter of thoroughbred horses upon whose backs, both literally and figuratively, the industry and the State make money, is a black eye for racing. In 2008, HBO broadcast a documentary called “Running for their Lives” that exposed the sale of thoroughbreds to slaughter. The documentary had its primary setting at Mountaineer Racetrack, where an unlucky horse named “No Day Off” was herded and whipped into a “kill buyer’s” trailer to be taken to slaughter. Why? Because the horse just wasn’t running “too good.” The horse was otherwise healthy. You can watch this documentary on You Tube:

<http://www.youtube.com/watch?v=04mvw6tTHrs&feature=relmfu>

<http://www.youtube.com/watch?v=RSboR03WnjI&feature=relmfu>

West Virginia's racetracks, including Mountaineer, have tried to step up to stop this practice. But, they want the Commission to step up too by getting this rule in place and providing a strong disincentive for permit holders to send their horses to slaughter. If you watch the HBO documentary, you can see the extraordinarily horrific and inhumane fate that awaits horses at the slaughterhouses in Mexico and Canada. For the horsemen to argue that the slaughter of horses is a painless, humane death, is to ignore reality.

It furthers the integrity and the image of racing (the later of which is a driver of whether people wager) to attempt to ensure that the horses are humanely treated at the end of their racing careers. If the Commission can tell a permit holder that he or she can't give a horse drugs or put certain shoes on a horse for integrity and welfare purposes, then surely it can tell a permit holder that they can't cause a horse to be killed at a slaughterhouse for the same purposes.

The horsemen have also expressed concern in their comments that the proposed "anti-slaughter" rule would result in misguided or irresponsible enforcement actions by the Commission. They assert that one could be held responsible under the proposed rule simply if his/her horse ends up at a slaughter house. This concern is unfounded and shows a misunderstanding of the proposed rule. To be perfectly clear, the proposed "anti-slaughter" rule does not create a strict liability offense. In other words, one cannot be disciplined under the rule unless there is evidence, to be presented by the Commission, that the permit holder knew or should have known that his/her thoroughbred would be slaughtered. One who sells a horse and knows or should know that it will be slaughtered deserves to be disciplined. A compelling number of comments received on this issue were in support of the proposed rule. The horsemen's comments are based on a faulty premise and do not serve as a basis for the Commission to abandon this proposed rule.

PROTECTION OF THOROUGHBRED WELFARE RULE

The Charles Town HBPA urges in its public comment that the Commission strike a rule allowing it to discipline a permit holder who abandons, mistreats, abuses, neglects or engages in an act of cruelty to a horse. The Mountaineer HBPA supports this rule. This provision was contained in the Commission's Thoroughbred Racing Rule prior to July 2011, but was inadvertently omitted in the re-write that led to the rule effective July 2011. It is impossible to envision regulation of horse-racing that does not include a provision to punish racing permit holders who abuse or neglect the animal which is at the center of this industry. The Charles Town HBPA's position in this regard is flatly inconsistent with the best interest of the industry and cannot be adopted by the Commission.

FOUR HOUR PRE-RACE EXAM REQUIREMENT

In the 2011 re-write of the Thoroughbred Racing Rule, a requirement was included that all potential starter horses undergo a pre-race soundness exam by a State Veterinarian. In this re-visitation of the rule which was put out for public comment, the Commission seeks to impose a requirement that starters must be on the grounds of the racetrack at least four hours prior to post time to ensure that a timely and thorough pre-race exam can be performed. All of the comments received

on this issue were in support. The Commission is appreciative of the supportive comments and believes that this rule amendment is warranted.

LASIX

The AAEP commented in support of the Commission's proposed rule amendment that requires the administration of Lasix, an anti-bleeding medication, on track grounds. There were no comments adverse to this provision. The Commission believes this rule amendment is warranted.

Both the AAEP and Hollywood Casino at Charles Town Races (Charles Town Racetrack) made a comment that the Commission should amend its Lasix rule to require that Lasix be administered on race day by a State Veterinarian or a veterinarian appointed/retained by the Commission who does not otherwise treat horses on the racetrack for hire by owners/trainers. RCI has a Model Rule which contains this requirement. Several racing states surrounding West Virginia have adopted this rule.

The upshot of this rule is that race day is indeed the most dangerous day for potential wrongdoing when it comes to the administration of drugs that are impermissible. Inasmuch as practicing veterinarians have access to horses on race day to administer Lasix for the owners/trainers who hire them, the potential for the administration of other, impermissible drugs is elevated. The RCI adopted this Model Rule to get the practicing vets out of the barns on race day.

The Commission believes that this rule amendment is worthy of consideration. However, there are practical questions unresolved as to whether this rule could work in West Virginia. Because of the limited time the Commission has had between the end of the comment period (August 13, 2012 and the deadline for the filing of its rule (August 31, 2012), the Commission has not adequate time to resolve the answers to those questions. Therefore, the Commission believes that this issue should be left to future rule-making efforts.

The Commission received another comment related to Lasix by the Jockey Club. The Jockey Club has commented that the Commission should adopt a rule that initiates the phase-out of Lasix as a race day medication. The Commission is aware that this issue is in flux and is being hotly debated in racing circles. The Commission is in the process of scheduling a special meeting to occur in the next few months at which the sole topic will be Lasix. It is premature for the Commission to consider the issue proposed by the Jockey Club at this point.

SHOCK WAVE THERAPY

The Commission received a comment from its counsel recommending that it amend its rule dealing with the treatment of shock wave therapy for horses. In July of this year, RCI amended its Model Rule to tighten up and strengthen the regulatory requirements for this therapy. To keep its shock wave therapy rule current with national standards, the Commission believes that these amendments are warranted.

EJECTION RULE

The Commission received two comments on the long-standing rule that provides that ejected permit holders may appeal their racetrack ejections to the Commission. One person suggested that the rule needs to be amended to comply with the West Virginia Supreme Court decision in *PNGI Charles Town Gaming, LLC v. Reynolds*, 229 W. Va. 123, 727 S.E. 2d 799 (2011). While the comment may be well-intended, there are no amendments necessary to this rule to comply with that Supreme Court decision.

Charles Town Racetrack, the losing litigant in the Supreme Court case, also commented on this provision in the Thoroughbred Racing Rule. These provisions are found at 178 W. Va. C.S.R. 1 §§ 6.1 and 6.2. Essentially, these sections provide that if a racetrack ejects or excludes an occupational permit holder from its property (effectively preventing the permit holder from exercising his/her property right in that permit), then the permit holder is entitled to appeal the ejection/exclusion to the Racing Commission. Charles Town Racetrack wants this appeal right stricken from the rules. The comment fails to acknowledge that this entitlement to appeal an ejection/exclusion has been included in the thoroughbred racing rules since at least the 1970s. It is not a new provision. Moreover, the comment fails to acknowledge that the West Virginia Supreme Court held that the Commission's right to review ejections arises not only from its legislative rule on thoroughbred racing, but also from its plenary statutory authority set forth in West Virginia Code § 19-23-6. Therefore, the Commission's authority in this regard is not solely dependent upon the long-standing legislative rule.

As Charles Town Racetrack notes, a permit holder's right to appeal an ejection/exclusion was recently litigated in this State, up to the West Virginia Supreme Court of Appeals. In the *Reynolds* case, just decided in November 2011, the Court affirmed the Racing Commission's authority to review and ultimately reverse a racetrack's decision to eject/exclude a permit holder from its property. The foundation of this appeal right and the Commission's authority to review derives from its plenary statutory authority cited above, coupled with a permit holder's property right in that permit as recognized by the United States Supreme Court in *Barry v. Barchi*, 443 U. S. 55 (1979). PNGI fought hard to preserve what it believed was an unfettered right to eject anyone with no review by the Commission. The Commission fought just as hard to maintain its authority to review these ejections. PNGI raised all of the potential legal arguments to support its position and the Court disagreed with it. Given the decision in the Commission's favor, the Commission sees no reason to suddenly remove from the rule a provision that it has unequivocally taken the position is important to the effective and complete regulation of thoroughbred racing. To hand over an unfettered right to eject a permit holder to the racetracks is not in the best interests of the integrity of racing. And, this is simply not what the Legislature intended when it created the Commission and vested it with plenary authority to regulate the industry.

Nothing in the rule or the *Reynolds* case states that a racetrack cannot exercise its right to eject/exclude. The rule and the statute, as affirmed by *Reynolds*, simply provide that if the ejected party was a permit holder, the racetrack will have to justify its ejection at an administrative hearing

should the permit holder appeal to the Commission. And, there is no right to appeal for a patron who is ejected - the right extends to those who hold Commission-issued occupational permits. If the permit holders ejected by Charles Town Racetrack are as detrimental to the industry as its public comment indicates, then presumably Charles Town Racetrack can readily demonstrate the same at a hearing. This is not a difficult burden to overcome. Moreover, the transparent, public nature of the process is consistent with integrity. Without some check on the racetracks' ejections, they would be free to effectively negate the permit holder's property right in his/her permit without any semblance of due process.

No other licensed racetrack made a public comment to the Commission requesting that this rule be scuttled. The Commission believes that this rule should remain and that ejected permit holders should be given due process of law if they invoke the hearing process.

HORSE SUSPENSION

Charles Town Racetrack made a comment that the Commission should amend its medication rule penalty provisions to effectively suspend a trainer's horses when the trainer himself is suspended for a medication rule violation. This comment is worthy of consideration. However, because of the limited time the Commission has had between the end of the comment period (August 13, 2012 and the deadline for the filing of its rule (August 31, 2012), the Commission has not adequate time to thoroughly analyze the viability of this rule amendment. Therefore, the Commission believes that this issue should be left to future rule-making efforts.

PROHIBITED SUBSTANCES

The Jockey Club made a comment that the Commission should consider adopting its new prohibited substance classification system for medications and other substances and that it should adopt its new penalty system for the violation of medication rules. The Jockey Club recently published a recommendation that RCI and racing commissions adopt a simplified prohibited substances classification system and a penalty system that would assign points to permit holders for medication rule violations. The points would vary depending upon the severity of the violation and once a permit holder has reached so many points, certain penalties would be triggered.

RCI is in the process of reviewing the Jockey Club's proposal to determine whether it should be adopted into the RCI Model Rules. The Commission desires to have the benefit of RCI's analysis of the Jockey Club's proposal before it considers this rule proposal. Therefore, the Commission believes that this issue should be left to future rule-making efforts.

AGE OF PERMITTING RULE

The Commission received comments both supportive of and against its rule that requires a permit applicant to be age eighteen to be eligible to receive an permit. The Commission changed the minimum permit age from sixteen to eighteen in its 2011 re-write of the Thoroughbred Racing Rule. The age eighteen requirement has now been in the rule for over a year. Some commenting

parties desire that the Commission change the rule back to age sixteen; whereas other commenting parties support leaving the age at eighteen. The Commission finds that there is insufficient evidence/support for returning the rule back to age sixteen. Therefore, the Commission believes that the rule should remain as it is at age eighteen.

This fairly summarizes the major topics upon which comments were made to the West Virginia Racing Commission on the Thoroughbred Racing Rule, 178 W. Va. C.S.R. 1. The Commission considered and weighed all comments received. Moreover, the Commission appreciates all of those individuals and organizations who took the time and made the effort to comment on its Thoroughbred Racing Rule.

Survey of Rulings by Drug by State with 10 or Greater Reports

Drug or Medication involved	CT	VT	NH	ME	MA	RI	CT	NY	PA	DE	MD	VA	NC	SC	GA	FL	AL	LA	MS	TX	OK	MO	IL	IN	OH	MI	WI	ND	SD	NE	KS	IA	WY	MT	WV	DC		
Phenibutazone	1589	208	15	33	173	137	67	4	26	408	43	5	11	5	66	25	17	58	53	31	65	8	41	4	33	5	6	21	4	0	8	2	4					
Flunitrin	314	37	0	3	7	17	3	1	50	21	37	4	3	7	1	1	5	4	10	15	15	0	33	17	5	3	1	1	2	0	6	1	0					
Methocarbamol	179	65	1	3	24	1	7	3	7	12	9	19	2	2	0	8	1	0	0	2	1	1	12	0	0	1	0	0	0	0	1	0	0	0				
Clenbuterol	172	28	0	6	31	4	1	2	14	14	4	14	3	0	8	4	0	0	1	5	1	2	7	14	5	2	1	0	1	0	0	0	0	0				
Dexamethasone	105	23	1	0	0	10	3	3	2	16	5	4	0	0	3	0	0	3	1	5	0	19	0	0	0	0	0	0	3	0	1	0	0	0	0			
Acetaminophen	58	4	0	3	40	2	0	1	0	4	3	5	0	1	1	1	0	0	5	5	0	0	11	0	0	0	0	0	0	0	0	0	0	0	0			
Dimethylsulfoxide (DMSO)	85	0	0	0	33	1	0	0	22	1	13	2	2	0	5	0	0	1	2	0	0	3	0	0	0	0	0	0	0	0	0	0	0	0	0			
Methylprednisolone	50	5	0	0	0	11	0	0	0	0	0	4	1	0	0	0	0	2	2	41	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0			
Omeprazole	69	0	0	0	29	0	0	0	0	0	40	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0			
Stanozolol	63	1	0	0	55	0	0	0	0	0	1	3	0	0	0	0	0	0	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
Testosterone	50	0	1	0	37	0	0	0	3	0	0	0	0	0	0	0	0	0	1	0	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
Naproxen	43	1	0	1	3	0	0	0	0	0	4	5	3	2	0	1	0	1	0	4	13	1	7	0	0	0	0	0	0	0	0	0	0	0	0	0		
Boldenone	46	2	0	0	31	4	1	0	1	0	0	0	0	0	0	0	0	2	1	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
Glycopyrrolate	40	0	2	0	22	0	0	2	4	1	7	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
Ranitidine	38	0	0	0	21	0	0	0	0	5	7	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
Tramadol Acetate	31	1	0	0	0	2	0	0	2	0	5	2	0	0	0	0	0	0	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
Trichloroethylene	24	11	3	0	0	0	0	0	0	0	1	0	0	1	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
Caffeine	23	3	0	0	11	0	0	0	0	3	2	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
Fluphenazine	21	0	0	0	10	0	0	0	0	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
Cocaine	19	0	0	0	7	0	0	3	0	3	0	0	0	0	0	0	0	0	0	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
Procaine	17	6	0	0	1	0	0	2	1	1	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
Diclofenac	15	1	1	1	0	0	0	0	0	3	1	0	0	0	0	0	0	0	0	0	3	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
Lidocaine	16	1	0	0	1	1	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
Oxyphenbutazone	16	0	0	0	3	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
Cimetidine	15	0	2	0	10	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
Raclopramide	14	1	0	0	0	9	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
Nandrolone	14	0	0	0	8	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
Albuterol (Salbutamol)	12	3	0	0	6	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
Promazine	10	0	0	0	8	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
Ketoprofen	12	3	0	0	0	1	0	0	1	4	1	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
Isoxsuprine	11	1	0	0	0	0	1	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		
Butorphanol	10	0	0	0	0	5	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0		

Source: Analysis of Rulings available at ThoroughbredRulings.com



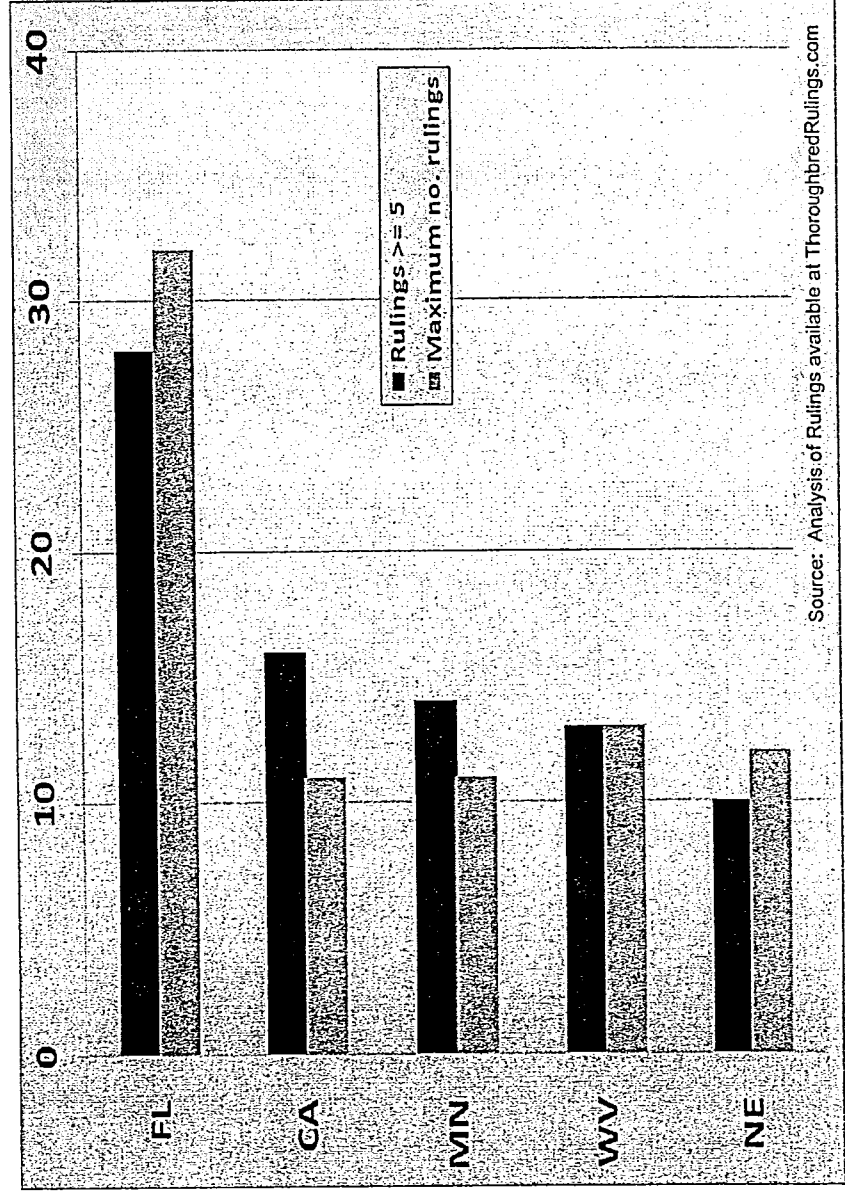
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EXHIBIT

1

CONFIDENTIAL AND PROPRIETARY COPYRIGHTED INFORMATION OF THE JOCKEY CLUB. DO NOT REDISTRIBUTE WITHOUT PERMISSION OF THE JOCKEY CLUB

- 118 individuals (0.1%) with 5 or more drug rulings during 2005–2011 accounted for 841 of the total (24.0%)
- 690 of those rulings were issued by 5 states



EXHIBIT

2

tabbles

AMENDMENTS MADE TO RULE AS A RESULT OF COMMENTS

THOROUGHBRED RACING 178 CSR 1

The following amendments were made to the rule as a result of comments received:

The Commission received a comment advocating that it adopt the recent, July 2012, amendments made by the Association of Racing Commissioners International, (RCI), to the RCI Model Rule pertaining to extracorporeal shock wave therapy treatment for the horse. West Virginia's current Thoroughbred Racing Rule mirrors the RCI Model Rule as it existed prior to RCI's July 2012 amendments. To keep the Commission's extracorporeal shock wave therapy rule current, the Commission decided to amend its rule to include the RCI's July 2012 amendments to the Model Rule. Keeping the Commission's shock wave therapy rule current is important to protect the health and welfare of horses and racing participants. The following strike-throughs and underlines demonstrate the amendments made to this rule:

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

48.4.d.1. Any treated horse shall not be permitted to race or train for a minimum of ten (10) days following treatment;

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

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

48.4.d.4. All extracorporeal shock wave therapy or radial pulse wave therapy treatments must be reported to a Racing Commission veterinarian within one (1) day on a prescribed form, not later than the time established by a Racing Commission veterinarian. The horse shall be added to a list of ineligible horses. This list shall be kept in the association's racing secretary's office and shall be accessible to jockeys and/or their agents during normal business hours; and

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