

RD4497

Minnesota Racing Commission

STATEMENT OF NEED AND REASONABLENESS

Possible Amendment to Rules Governing Horse Racing, Minnesota Rules, Parts 7869 Definitions; 7870 Licensure; 7871 Televised Horse Racing Days; 7872 Assignment of Horse Racing Days; 7873 Pari-Mutuel Rules; 7875 Facilities and Equipment; 7876 Stabling; 7877 Class C Licenses; 7878 Racetrack Security Officers; 7879 Stewards; 7883 TB/QH Horse Races; 7884 Harness Races; 7897 Prohibited Acts

INTRODUCTION

The Minnesota Racing Commission (MRC) continuously strives to keep its rules current and relevant as the industry evolves. This rulemaking initiative will modify, clarify and update various existing MRC rules. In many cases, rules will be made more consistent with the industry model rules. Finally, this initiative will repeal several obsolete rules. Following is a brief summary of the changes.

7869.0100 DEFINITIONS.

Subd. 3a. **Administer or administration.** The commission is proposing a new definition relating to medications and prohibited substances in racehorses.

Subp. 21. **Declaration.** The commission is proposing to repeal a definition that is now obsolete.

Subp. 33a. **Licensed racetrack.** The commission seeks to repeal a definition that conflicts with the definition in Chapter 240 of Minnesota Statutes.

Subp. 40a. **Non-recognized racing equipment.** This new definition is being proposed along with a new rule part limiting the use of certain racing equipment.

7870.0460 SECURITY.

The language is updated to make the rule more clear consistent with the commission's statutory authority.

7870.0490 CARE OF HORSES.

Language and syntax are updated.

7870.0500 CONTRACT APPROVAL.

Subpart 3. **Information required.** The proposed change updates and simplifies the commission's review of contracts.

7870.0850 SECURITY

Language is updated to make the rule clearer and more consistent with the commission's statutory authority.

7871.0060 ALTERED OR MUTILATED TICKETS.

The proposed update would allow an association to cash an altered or mutilated ticket if the wager can be reliably verified by other means.

7872.0100 APPLICATION FOR RACING DAYS.

The commission is proposing to simplify the process for approval of live and simulcast racing days.

7873.0100 APPLICATION FOR PARI-MUTUEL POOLS.

Subpart 1. **Submission of live racing days requests.** The update would allow racetracks to submit one copy of their application electronically instead of providing 15 paper copies.

Subp. 3. **Revision of racing days.** The commission proposes to allow the racetracks to submit some change requests three days in advance instead of five days in advance.

Subp. **Submission of televised racing days request.** The proposed change would simplify the process for the racetracks to request approval of televised racing days.

Subp. 7. **Variations to televised racing days within dates previously approved by commission.** The update would simplify the process for requesting changes to approved televised racing days and allow the commissions director or deputy director approve changes.

7873.0100 APPLICATION FOR PARI-MUTUEL POOLS.

Subpart 1. **Submission of pari-mutuel requests.** The update would allow racetracks to submit one copy of their application electronically instead of providing 15 paper copies.

7873.0130 PREVENTION TO START.

The proposal would allow wagers, which would otherwise be cancelled because a horse did not get a fair start, to still be paid if the horse wins the race.

7873.0150 SCRATCHES.

The language is updated for consistency with other rules.

7873.0180 PERFECTA OR EXACTA.

Subpart 1. **Scope.** The proposed changes delete the obsolete term "perfecta."

Subp. 2. **No winning combination sold.** The proposed changes delete the obsolete term "perfecta."

Subp. 4. **Refund of pool.** The proposed changes delete the obsolete term “perfecta.”

7873.0189 PENTAFECTA.

Subp. 13. **Displaying pentafecta rules.** This subpart is being repealed because it is unnecessary and duplicative.

7873.0196 PICK (N) WAGERS.

Subp. 6. **Pick (n) pool payout methods.** One of the pick (n) payout options is revised to make it consistent with changes to the model rule.

Subp. 7a. **Unique winning tickets.** This new subpart is added to clarify the new payout option in conformity with changes to the model rule.

7873.0300 SUMULCAST WAGERING.

Subp. 3. **Pari-mutuel pools.** This subpart is repealed because it is duplicative and unnecessary.

7873.0550 DISTRIBUTION OF PURSE MONEY

Subp. 6. **Escrow Accounts.** The change would update the requirement for keeping entry fees in segregated accounts.

7875.0100 FACILITIES.

Subpart 1. **Facilities.** The obsolete term “complaint desk” is being replaced with “information window.”

Subp. 2. **Maintenance.** The language is updated for clarity and to more closely conform to the commission’s statutory mandate.

Subp. 6. **Jockey’s and driver’s rooms.**

The proposed change would eliminate the prohibition of cell phones in the jockey’s and driver’s rooms. It would also update the security requirements to conform to the model rule.

7875.0200 EQUIPMENT.

Subp. 2. **Pari-mutuel central processing unit.** Language is updated to account for improved totalizator technology.

Subp. 9. **External Communications.** Obsolete and unnecessary language is being deleted.

7876.0100 ON-TRACK STABLING.

Subp. 9. **Secure area.** An amendment is proposed for clarity and to permit certain unlicensed visitors in the on-track stabling area.

7877.0110 PROCEDURE FOR OBTAINING CLASS C LICENSE

Subp. 4. **Racing officials.** This change would allow for certain racing officials to have “at least” 20-20 corrected vision instead of exactly 20-20 corrected vision.

7877.0155 CONDITIONS PRECEDENT TO LICENSING.

The proposal would allow the commission to collect saliva samples from licensees in addition to blood, breath or urine.

7877.0165 CREDENTIALS.

Subpart 2. **Temporary pass.** The proposed change would allow a temporary pass for the stabling area to be valid for up to three days instead of “until such time as the licensing office reopens.” It would also require the association to verify the identity of the recipient and their need for the pass, and provide the commission with a list of persons who are issued passes.

7877.0170 DUTIES AND RESPONSIBILITIES OF CLASS C LICENSEES.

Subpart 2. **Trainers.** A non-substantive update to item C will clarify a trainer’s responsibilities with respect to the administration of prohibited substances to racehorses. Item F is amended to further define the requirement for trainers to provide the association and the commission with updated lists of their employees. Item O is amended to give a trainer until 9:00 a.m. on race day to file Coggins paperwork, rather than prior to entry. Item P is updated to add a reference to the rule on outbreaks of infectious or contagious equine diseases. New items U and V are added to prevent over-medication of horses that move from one trainer to another after a claiming race.

Subp. 3. **Jockeys and apprentice jockeys.** Item D is updated to allow jockeys to communicate with persons outside the jockey’s room as long as it is not concerning the day’s races. Item L is updated to allow jockeys to have certain advertising on their clothing. Items U and X are clarified to conform the rule to the model rule and existing practice.

7877.0175 DUTIES AND RESPONSIBILITIES OF RACING OFFICIALS.

Subpart 1. **Racing Secretary.** Duplicative and obsolete language is being deleted.

Subp. 9. **Patrol judge.** The proposal would eliminate the requirement that an association have a patrol judge and make it permissive instead.

7878.0120 LICENSING OF SECURITY OFFICERS

Subpart 1. **Notice of intent.** The commission is proposing to repeal this subpart requiring a racetrack to notify it when it employs a security officer. It is overly burdensome and unnecessary.

7878.0130 BASIC COURSE

Subpart 1. **Applicant shall successfully complete basic course.** The proposed update would allow new security officers to be licensed and begin working under supervision until they complete required training.

7878.0150 STANDARDS OF CONDUCT FOR SECURITY OFFICERS

Subpart 1. **Certain licensees must be POST Board licensed or POST Board eligible.** The commission seeks to repeal the obsolete and unnecessary requirement that racetrack security officers be POST board eligible.

Subp. 1a. **Carrying of firearms.** The proposed amendment would require an association to provide the commission a copy of the conceal carry permit for each employee who may carry a firearm on the grounds of a licensed racetrack, rather than notifying the local chief of police.

7878.0180 SECURED AREAS OF LICENSED RACETRACK GROUNDS

In keeping with the industry model rule, this proposed new rule part would require racetracks maintain security in the stable area and would allow an association to permit unlicensed visitors in secured areas of a licensed racetrack under certain conditions.

7879.0100 QUALIFICATIONS AND APPOINTMENT OF STEWARDS

Subp. 2. **Appointment and approval of stewards.** The proposed change would allow the commission's director to designate a temporary or emergency steward when necessary.

7879.0200 AUTHORITY AND DUTIES OF STEWARDS

Subpart 1. **General authority of stewards.** The proposed amendment would add a reference to rules and replace the vague and outdated term "customs of the turf."

7883.0100 ENTRIES AND SUBSCRIPTIONS.

Subp. 2. **Horse must be registered and eligible.** Item B is being updated to include microchip numbers as a means of identifying a horse and to eliminate the requirement to file a certificate of bleeding with the racing secretary. Syntax changes are proposed and extraneous language is being deleted on items D and E. New items F and G are proposed to align with the model rules.

Subp. 2a. **Prohibited Starters.** This new subpart is proposed to add additional reasons a horse may not be permitted to start. Item A is moved from Subpart 6 so that a horse may now be entered by an unlicensed person but may not start until the individual is licensed. Item B is patterned after the model rule and other commission rules.

Subp. 4. **Entering procedure.** The proposal would eliminate the outdated term "telegraph" from item B and add the new term "electronic means." It would also require an entry to be confirmed in writing only if requested by the stewards or racing secretary.

Subp. 6. **Prohibited entries.** An update to item D would now allow an unlicensed person to enter a horse unless their license has been denied or revoked. New items F-I provide additional reasons a horse may not be entered, taken from the industry model rule.

Subp. 19. **Commission's access to entered horses.** This new subpart would give the commission access to examine and test any horse entered to race.

7883.0120 DECLARATIONS AND SCRATCHES

Subpart. 1. **Procedure for scratching horses.** The commission is proposing to delete the outdated term “declarations” and to delete item D which is obsolete.

Subp. 7. **Declarations are irrevocable.** The commission is proposing to repeal this subpart because it is obsolete and no longer needed.

7883.0130 PENALTIES AND ALLOWANCES

Subpart 1. **Determining penalties and allowances.** An update to item G would clarify that the first and second place finisher are liable for penalties attached to the winner until any dispute is resolved.

7883.0140 CLAIMING RACES.

Subpart 1. **Who may claim.** The proposal would simplify the claiming process and open it up to any licensed owner or any applicant for an owner’s license as long as they complete the licensing process in a timely manner.

Subp. 8. **Voided claims.** The proposed update would provide that a claim is automatically voided if a horse dies or is euthanized within an hour of racing. It would also permit the claim to be voided if the horse is placed on the vet’s list for a musculoskeletal injury within one hour of racing, unless the claimant had waived that right upon entry.

Subp. 9. **Prohibition on claims.** A drafting update is made to make the language consistent with changes to subpart 1.

Subp. 32. **Report of corticosteroid joint injections.** This subpart is repealed because the language is being moved to part 7877.0170, subpart 2.

7883.0150 PADDOCK TO POST.

Subpart 1. **Horses must have identifying equipment.** The language is clarified and obsolete language is deleted.

7883.0160 POST TO FINISH.

Subp. 7. **Determination of disqualifications.** A new Item C is proposed so it is clear in light of Item B that the stewards may disqualify any commonly-owned horse, whether or not racing as a coupled entry, if it is in the interest of racing integrity to do so.

7884.0120 ELIGIBILITY AND ENTERING.

Subp. 16. **Entered horse to be on grounds.** A new subpart 16 is proposed to require entered horses to be on the grounds at a prescribed time prior to racing.

Subp. 17. **Commission’s access to entered horses.** A new subpart 17 would give the stewards authority to require an entered horse to be on the grounds at any time prior to racing and remain there until after the race is completed.

7884.0140 COUPLED ENTRIES.

Subpart 1. **Horses to be coupled as an entry.** The proposal would simplify the coupling rule for harness racing.

Subpart 4. **Program notes.** This new subpart would require program notes when any two or more horses in a race have a common owner or trainer.

7884.0170 SCRATCHES.

Subpart 1. **Judges to approve scratches.** The more correct term “stewards” is substituted for “judges.”

Subp. 3. **On advice of veterinarian.** The more correct term “stewards” is substituted for “judges” and references to “association veterinarian” are removed. The time on the veterinarian’s list is changed from five to seven days for a horse scratched for medical reasons.

Subp. 4. **Scratched as unsound.** Proposed new language would clarify that horses re-qualifying after being scratched as unsound may be drug tested following qualifying races.

Subp. 5. **Horse off grounds scratched.** This proposed new subpart would provide a potentially longer time on the veterinarian’s list for a horse scratched for medical reasons without documentation timely presented to the commission veterinarian.

7884.0190 QUALIFYING RACES

Subp. 2. **Horses required to compete in qualifying races for race meets longer than two weeks.** Subpart F is amended to allow previously-qualified horses, who are attempting to add or remove hobbles, to remain qualified even if they fail to qualify under the new condition.

7884.0210 CLAIMING RACES.

Proposed edits to the harness racing claiming rule are proposed to make it consistent with the Thoroughbred and Quarter horse claiming rule. In addition, there is a provision added to require horses scratched from a claiming race to run back at the same price or less if they start again in the next 30 days.

7884.0250 RECALLS.

Subp. 4. **Inquiry into failure to sound recall.** Language is proposed to clarify that a horse interfered with prior to the start of a harness race will be declared racing for purse money only.

7884.0260 DRIVING RULES.

Subp. 2. **Conduct after word "go" is given.** Whipping rules for harness racing are modified to align with best practices and rules from leading harness racing states.

Subp. 4. **Lapped on break.** A sentence is added to clarify that placing a horse is always at the discretion of the stewards.

Subp. 7. **Use of stirrups.** The rule is modified to allow a driver to remove a horse’s earplugs with his or her feet.

7884.0270 EXPANDED HOMESTRETCH RACING.

Subp. 2. **Rules.** The pylon rule is slightly adjusted to allow for a sulky to go over a pylon as long as they do not go inside one or more pylons.

7897.0100 PROHIBITED ACTS.

This rule part will now be called “Prohibited Acts, Sanctions and Appeals,” and will include license holders’ rights to appeal any sanction to the commission or in some cases a contested case hearing.

Subp. 6a. **Hostile acts.** The commission is proposing a new prohibited act – engaging in conduct or using language that is threatening, harassing or abusive toward a person or animal on the grounds of a licensed racetrack.

Subp. 22. **Use of non-recognized racing equipment.** A new prohibit act is proposed to limit the use of non-recognized racing equipment on race day without approval of the stewards in consultation with the commission veterinarian.

Subpart 23. **Chain shank.** A new prohibited act is proposed to require the oral portion of a chain shank to be covered with a soft non-abrasive material. This has been implemented by the racetracks as a “house rule” up until now.

7897.0110 USE OF DRUGS AND ALCOHOL.

Subpart 1. **Drugs.** The proposal would add saliva testing to the commission’s drug testing authority for certain occupational licensees. It would remove the requirement for a licensee who refuses a drug test to appear before the commission and instead make refusal to test a “serious violation.”

7897.0120 DISCIPLINARY SANCTIONS.

Subpart 1. **Licensees.** The commission is proposing to clarify that a sanction may be taken on a license for any violation of law or the commission’s rules. Language is added to clarify that the commission or stewards may place conditions on a license and that sanctions may be imposed after a license expires for conduct that occurred when the license was in effect. This subpart would now be titled, “Sanctions.”

Subpart 4. **Effect of sanctions.** This new subpart is proposed to provide certain restrictions on future licensing of individuals who have been sanctioned; it also provides that individuals who have been sanctioned may not benefit financially from racing until their licenses are restored to good standing.

7897.0130 SCHEDULE OF FINES.

Subp. 4. **Serious violations.** The change would make refusal to take a drug test a *per se* serious violation.

7897.0150 DISCIPLINARY AND APPEAL PROCEDURES

This part will now be titled simply “disciplinary procedures” as appeal procedures will be addressed in a separate rule part.

Subp. 2. **Penalties imposed by stewards.** Items B and C are moved under a new subpart 10 which will now include penalties for medication violations issued by either the stewards or the commission. The language is broken into four separate items for readability.

Subp. 3. **Appeal to commission.** This subpart is repealed and the language is moved to the new rule part 7897.0155 which addresses appeals.

Subp. 4. **Review or appeal by commission, director, or deputy director.** This subpart is re-numbered and moved under the new part 7897.0155 which addresses appeals.

Subp. 5. **Stays of stewards' decisions.** This subpart is repealed and the language is moved under the new rule part 7897.0155 which addresses appeals.

Subp. 6. **Procedure for appeal of decision of stewards.** This subpart is repealed and the language is moved under the new rule part 7897.0155 which addresses appeals.

Subp. 7. **Deposit shall be required.** This subpart is re-numbered and moved under the new part 7897.0155 which addresses appeals.

Subp. 8. **Commission shall set date for hearing.** This subpart is repealed and the language is moved under the new rule part 7897.0155 which addresses appeals.

Subp. 9. **Appeal by commission.** This subpart is re-numbered and moved under the new part 7897.0155 which addresses appeals.

Subp. 10. **Penalties imposed by stewards or commission for medication violations.** This language is moved from subpart 2 and edited to make it applicable to penalties issued by either the stewards or the commission.

7897.0155 APPEAL TO COMMISSION

This new rule part is created to consolidate all requirements for appealing any sanction or stewards' ruling to the commission. Timelines are slightly adjusted. An amendment is made to require a showing of good cause for the director to issue a stay.

7897.0160 COMPOSITION OF HEARING PANEL

Subpart 1. **Designation of panel.** This subpart is repealed and the language is moved under the new rule part 7897.0155 which addresses appeals.

Subp. 2. **Hearing panel's decision.** This subpart is repealed and the language is moved under the new rule part 7897.0155 which addresses appeals.

7897.0170 CONDUCT OF APPEAL HEARING.

Subp. 10. **Summary disposition.** This new subpart is proposed to require the commission to summarily decide an appeal without a hearing if there are no genuine issues of material fact.

7897.0190 DISCIPLINARY ACTION BY COMMISSION

This rule part would now be titled, "CONTESTED CASE HEARINGS."

Subpart 1. **Contested case hearings.** This subpart would be titled, "Right to a contested case hearing." The proposal would allow a licensee the right to elect a contested case hearing or an appeal to the commission, rather than requiring a contested case hearing be held before certain sanctions are ordered. A class C licensee would now have the right to a contested case hearing if the license is suspended more than 180 days instead of 90 days. All licensees would have the right to a contested case hearing for a fine of more than \$5,000, which is consistent with statute.

Subpart 2. **Procedure.** New language specifies the manner for requesting a contested case hearing and provides that a sanction will be stayed pending the hearing unless the license was previously summarily suspended.

Subp. 3. **Exceptions.** This new subpart is moved from the current part 7897.0200, subpart 1, which is being repealed. A slight amendment would permit any party to file exceptions.

Subp. 4. **Consideration of arguments.** This new subpart is moved and renumbered from the current part 7897.0200, subpart 2.

Subp. 5. **Decision and order.** This new subpart is moved and renumbered from the current part 7897.0200, subpart 2.

7897.0200 COMMISSION DECISION.

Subpart 1. **Exceptions.** This subpart is repealed and the language is moved under the new part 7897.0190, subpart 3.

Subp 2. **Consideration of arguments.** This subpart is renumbered as part 7897.0190, subpart 4.

Subp. 3. **Decision or order.** This subpart is renumbered as part 7897.0190, subpart 5.

ALTERNATIVE FORMAT

Upon request, this Statement of Need and Reasonableness can be made available in an alternative format, such as large print, Braille, or audio. To make a request, contact Patricia Sifferle at the Minnesota Racing Commission, 15201 Zurich Street, Suite 212, Columbus, MN 55025; phone 651-925-3956, fax 651-925-3954; or email patricia.m.sifferle@state.mn.us. TTY users may call the Racing Commission at 800-627-3529.

STATUTORY AUTHORITY

The Racing Commission's statutory authority to adopt the rules is set forth in Minnesota Statutes section 240.23, which provides as follows:

The Commission has the authority, in addition to all other rulemaking authority granted elsewhere in this chapter to promulgate rules governing: a) the conduct of horse races held at licensed racetracks in Minnesota, including but not limited to the rules of racing, standards of entry, operation of claiming races, filing and handling of objections, carrying

of weights, and declaration of official results, b) wire and wireless communications between the premises of a licensed racetrack and any place outside the premises, c) information on horse races which is sold on the premises of a licensed racetrack, d) liability insurance which it may require of all racetrack licensees, e) the auditing of the books and records of a licensee by an auditor employed or appointed by the Commission, f) emergency action plans maintained by licensed racetracks and their periodic review, g) safety, security, and sanitation of stabling facilities at licensed racetracks, h) entry fees and other funds received by a licensee in the course of conducting racing which the Commission determines must be placed in an escrow account, i) affirmative action in employment and contracting by licensed racetracks, and j) procedures for the sampling and testing of any horse that is eligible to race in Minnesota for substances or practices that are prohibited by law or rule; and (k) any other aspect of horse racing or pari-mutuel betting which in its opinion affects the integrity of racing or the public health, welfare, or safety.

This provision was enacted in 1983 and only amended once since January 1, 1996. Items b and j above were added effective May 25, 2015. *Laws of Minnesota 2015*, Chapter 77, art. 4 § 20. However, the MRC believes this was a non-substantive amendment because it already had catch-all authority under item k to promulgate rules governing any aspect of horse racing or pari-mutuel betting which in its opinion affect the integrity of racing or the public health, welfare or safety. In any case, the MRC did promulgate new rules relating to item j above within 18 month of enactment of this amendment. R-4380, governing horse medication and testing, was adopted on March 18, 2016.

REGULATORY ANALYSIS

(1) A description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

The people probably affected by these proposed rule changes are racetracks and their employees, horse owners and trainers, veterinarians, and other persons who participate in horse racing or wagering. All stakeholders will benefit from the updating, simplification and clarification of existing rules, as well the elimination of obsolete rules. The commission believes that there will be no increased cost to anyone as a result of these rules. Several unnecessary and overly burdensome rules are being repealed, which will benefit the racetracks, horse trainers, and horse owners. Horse owners and the wagering public will benefit from better defined security requirements in the stabling areas.

(2) the probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues

There is no anticipated change in costs to the Commission or to any other state or local agency due to these proposed amendments.

(3) a determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule

The commission believes the proposed changes will not be intrusive, as they mainly seek to update and clarify existing rules and make them consistent with other jurisdictions, industry practices or

uniform model rules. The cost to implement them will be minimal. The commission has not identified any less costly or less intrusive methods for achieving the purposes of the proposed rules.

(4) a description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule.

Industry participants and stakeholders presented many of the proposed rule changes. Others are proposed in order to update, clarify or simplify existing rules. Many of the proposed rules have been used by the commission as guidelines or by the racetracks as “house rules.” They reflect current practices in the industry. However, to the extent these guidelines and practices affect the rights and duties of licensees, the commission believes they should be adopted in rules rather than implemented as racetrack “house rules” or commission guidelines.

(5) the probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals

The commission anticipates no appreciable increased costs to governmental units, businesses or individuals for complying with the rules. Most of these proposals seek to clarify or simplify existing rules, conform the rules to industry practice, or conform rules to national trade association rules for the sake of keeping them up-to-date and consistent with requirements in other racing jurisdictions. Some horse trainers may be required to keep more records than they currently do, but the cost should be negligible. The rules will now specifically require racetracks to provide continuous security in the stabling areas but this will not likely result in increased costs because they have always been required by rule to provide “adequate security” and have always provided continuous security in the stabling area.

(6) the probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals

The consequences of not adopting the proposed rules would be that some of Minnesota’s horseracing rules would be inconsistent with model rules that are being adopted in other jurisdictions. Horses would be more at risk of overmedication and infectious diseases. Racetracks would need to continue complying with some overly burdensome regulations that are unnecessary and obsolete.

(7) an assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference

There are no current federal regulations regarding these proposed rule changes. Horse racing is regulated by the various individual state racing commissions. However, there is a growing initiative to regulate racing through national legislation. The current bill in Congress has attracted bipartisan support. Several of the proposed rules are aimed at achieving uniformity across states, reciprocity with other jurisdictions, and adoption of industry model rules.

(8) an assessment of the cumulative effect of the rule with other federal and state regulations related to the specific purpose of the rule.

The proposed rules cover areas that are not addressed by federal law or other Minnesota laws or rules. The rules are designed to complement Minnesota Statutes, Chapter 240 without duplicating

requirements therein. Another goal is to make our rules consistent with those in other states for the benefit of horsemen who routinely race in other states as well as in Minnesota, thus reducing the cumulative effect of our rules.

PERFORMANCE-BASED RULES

These rules are proposed to support the health and safety of the horse and the integrity of racing consistent with the MRC mission. As required by Minnesota Statutes, section 14.002, they were developed with every effort to emphasize superior achievement in meeting the agency's regulatory objectives and maximum flexibility for the regulated parties and the agency in meeting those goals. We consulted with staff, commissioners, the Office of the Attorney General, interested industry members, and regulators from other states. We also reviewed model rules and rules in effect in other states.

INDUSTRY MODEL RULES

Some of these proposed rules are based on model rules developed by the Association of Racing Commissioners International (ARCI), a group comprised of government regulators of horse racing from throughout North America. It is a not-for-profit trade association with no regulatory authority. Its members individually possess regulatory authority within their jurisdictions and solely determine whether to adopt ARCI recommendations on policies and rules. The Minnesota Racing Commission's leadership is actively involved in ARCI committees and on the Board.

The development of model rules, standards and best practices is an ongoing project of ARCI member agencies. Relying upon the collective expertise of regulatory personnel from member states in consultation with regulated entities and industry stakeholders, ARCI committees continually consider ways to enhance the regulation of racing. The ARCI Model Rules are all-encompassing. They affect thoroughbred, quarter horse and standardbred racing. States are encouraged to adopt model rules to enhance uniformity of regulation in a sport that has evolved to be multi-jurisdictional.

Anyone can help the ARCI to improve racing regulation by proposing a new or amended model rule. Model rule proposals typically originate from industry stakeholders such as the Racing Medication and Testing Consortium (RMTC), the national Horsemen's Benevolent and Protective Association, the Organization of Racing Investigators, the Jockey's Guild, the various breed registries (The Jockey Club, the American Quarter Horse Association and the United States Trotting Association), the North American Association of Racetrack Veterinarians, the American Association of Equine Veterinarians, and the individual states themselves.

Model rules that originate within these stakeholder groups are supported by their members and board leadership. In the case of medication rules, for example, the RMTC has a standing Scientific Advisory Committee made up of regulatory veterinarians, veterinary pharmacologists, private practice veterinarians, and analytical chemists. The SAC reviews both RMTC-sponsored research as well as studies performed worldwide to arrive at proposed regulatory threshold recommendations to the industry. These proposals, once endorsed by the RMTC Board, go to the ARCI for review. At ARCI, the proposals would be reviewed by standing committees such as the Drug Testing Standards and Practices Committee, the Equine Safety Committee, and the Regulatory Veterinarians Committee prior to going to the Model Rules Committee, where testimony is heard, amendments are offered, and a vote is held to recommend adoption or reject the proposed rule. A rule recommended for adoption goes to the ARCI Board of Directors for final determination. The MRC's Executive Director is a member of both the Model Rules Committee and the Board.

ADDITIONAL NOTICE

The Minnesota Racing Commission began work on these rule proposals in August of 2017 after receiving recommendations from racing stewards, judges, racetracks and the Commission Veterinarian. A well-attended stakeholder meeting was held on September 27, 2017 to discuss the proposals. Notice of the meeting was sent to all persons on the commission's rulemaking list, as well as to Class A and B license holders and industry stakeholder groups. Horse trainers, owners, racetrack representatives, racing officials, horsepersons groups, the Jockey's Guild, and commission staff attended the meeting. The public was encouraged to submit additional proposals.

After the initial 60-day comment period, these proposed rules were thoroughly discussed by the Minnesota Racing Commission's Racing Committee, a panel comprised of three commissioners, at a public meeting on December 13, 2017. Members of the public provided valuable input at this meeting. The Racing Committee unanimously voted to recommend the rules to the Full Commission with some modifications. On December 21, 2017 the full Minnesota Racing Commission met and accepted the Racing Committee's recommendation and voted to publish the Notice of Intent to Adopt Rules. All rules discussion was clearly included on all agendas duly prepared and mailed or e-mailed 7 days prior to these meetings. Agendas were also posted on the Commission's website. Minutes and recordings of the meetings are available on the Commission's website at www.mrc.state.mn.us.

Our Notice Plan includes:

1. Publishing the Request for Comments in the October 2, 2017 edition of the State Register.
2. Posting the Request for Comments on the Office of Administrative Hearings rulemaking e-comments website with a link from commission's website.
3. E-mailing the Request for Comments to everyone registered to be on the Commission's rulemaking list under Minnesota Statutes, section 14.14, subdivision 1a.
4. E-mailing the Request for Comments to Class A & B licensees as well as horsemen's organizations that are affected by horse racing in Minnesota, including the Minnesota Thoroughbred Association, the Horsemen's Benevolent and Protective Association, Minnesota Harness Racing, Inc., the Minnesota Quarter Horse Racing Association, the Jockey's Guild, and the United States Trotting Association.
5. E-mailing the Request for Comments to organizations in Minnesota identified as having an interest in animal health including the Minnesota Board of Animal Health, the Minnesota Humane Society, the Minnesota Veterinary Medical Association, and the University Of Minnesota College Of Veterinary Medicine.
6. Our Notice Plan also includes giving notice required by statute. We will mail the proposed rules and Notice of Intent to Adopt to everyone who has registered to be on the Commission's rulemaking list under Minnesota Statutes, section 14.14, subdivision 1a. We will also give notice to the Legislature per Minnesota Statutes, section 14.116. The Proposed Rules and the Notice of Intent to Adopt will also be published in the State Register.
7. We will post the Notice of Intent to Adopt Rules and draft rules on the Office of Administrative Hearings rulemaking e-comments website, with a link on our website.
8. The Commission will provide an e-mail with a link to the draft rules and Notice of Intent to Adopt Rules to Class A & B licensees, horsemen's organizations, and animal health organizations in Minnesota as noted in paragraphs 3-5 above.

CONSULT WITH MMB ON LOCAL GOVERNMENT IMPACT

As required by Minnesota Statutes, section 14.131, the Commission will consult with Minnesota Management and Budget (MMB). We will do this by sending MMB copies of the documents that we send to the Governor's Office for review and approval on the same day we send them to the Governor's office. We will do this before the Commission publishes the Notice of Intent to Adopt. The documents will include: the Governor's Office Proposed Rule and SONAR Form; the proposed rules; and the SONAR. The MRC will submit a copy of the cover correspondence and any response received from Minnesota Management and Budget to OAH with the documents it submits for ALJ review.

DETERMINATION ABOUT RULES REQUIRING LOCAL IMPLEMENTATION

As required by Minnesota Statutes, section 14.128, subdivision 1, the agency has considered whether these proposed rules will require a local government to adopt or amend any ordinance or other regulation in order to comply with these rules. The Commission has determined that they will not, because all activity that these amendments affect occurs on licensed racetrack grounds, not out in the local community. There are times where we may have to contact local law enforcement or county/city attorney offices, but that is in the normal course of fulfilling our duties and responsibilities when events warrant. It is not anticipated that these amendments will either increase or decrease those contacts.

COST OF COMPLYING FOR SMALL BUSINESS OR CITY

As required by Minnesota Statutes, section 14.127, the Racing Commission has considered whether the cost of complying with the proposed rules in the first year after the rules take effect will exceed \$25,000 for any small business or small city. The Racing Commission has determined that the cost of complying with the proposed rules could not exceed \$25,000 for a small business. The Racing Commission has determined that the cost of complying with the proposed rules in the first year after the rules take effect will not exceed \$25,000 for any small city.

LIST OF WITNESSES

If these rules go to a public hearing, the Racing Commission anticipates having the following principal witnesses testify in support of the need for and reasonableness of the rules:

1. Thomas DiPasquale, MRC Executive Director
2. Dr. Lynn Hovda, Chief Commission Veterinarian, Minnesota Racing Commission
3. Dr. Camille McArdle, MRC, Chair MRC Racing Committee
4. Mr. James Lane, MRC Vice Chair
5. Ms. Patricia Sifferle, General Counsel

Additional witnesses could be called as needed. The commission does not anticipate calling non-agency witnesses.

RULE BY RULE ANALYSIS

7869.0100 DEFINITIONS.

Subp. 3a. **Administer or administration.**

This new definition would clarify the terms “administer” and “administration” as they are used in the rules. These terms are used in the “trainer responsibility” rule, Minn. R. 7877.0170, subpart 2, item C (2) and (3) and item 4, which is key to the fairness and integrity of racing. The “trainer responsibility” rule currently provides a trainer may not “administer” a medication or foreign substance to a horse within 48 hours of racing. It also provides that a trainer is responsible for a positive post-race drug test unless the trainer can prove by substantial evidence that neither the trainer nor their employees or agents were responsible for the “administration” of the medication. Finally, they provide that a trainer must guard the horse to prevent the “administration” of a medication or foreign substance in contravention of the medication rule. These terms are also used in the “medication” rule, Minn. R. 7890.0110, subparts 1 and 6, which prohibits the possession and administration of certain substance to horses.

This definition is needed because it is important to make it clear that administration includes the introduction of a substance into a horse’s system by any means. Typically medication is administered via the oral or injectable route but other means, such as inhalation, dermal, or transcutaneous, are used. Medications or other substances may be also introduced into a horse’s system from food or by contact with humans, other horses or the environment the horse is kept in. Prohibited substances may be introduced into a horse for illicit reasons or as a result of negligent stable practices. The proposed definition has been taken nearly verbatim from the industry model rule, which is attached as Exhibit A.

Subp. 21. **Declaration.**

The commission is proposing to repeal this definition because it is obsolete. The term “declaration” is no longer used in racing in the United States. It has been replaced by the commonly used term “scratch,” which is defined under subpart 55.

Subp. 33a. **Licensed racetrack.**

The commission seeks to repeal this definition because it is different from the definition of “licensed racetrack” found in Minnesota Statutes, section 240, subdivision 10, in the sense that it includes all U.S. and Canadian licensed racetracks whereas the statute refers only to Minnesota licensed racetracks.

Subp. 40a. **Non-recognized racing equipment.**

This new definition is being proposed along with a new rule, Part 7897.0100, subpart 22, prohibiting the use of non-recognized racing equipment on race day without permission of the stewards in consultation with the commission veterinarian. The commission veterinarian has noticed more and more trainers attempting to use various items such pain tape or rubber bands to mask pain on race day. If horses are in pain it may well be an indication that they are unsound or unfit to race. Horses who race without feeling their pain are more likely to break down, often resulting in catastrophic injury. The industry has made a concerted effort to identify “at risk” horses in order to reduce the rate of injuries and fatalities. Allowing the use of articles to conceal at-risk horses and interfere with the commission veterinarian’s ability to identify unsound horses during pre-race inspections would be inconsistent with our interest in protecting equine welfare. The commission also believes it is in the best interest of racing to protect horses from equipment that may make them race better but causes them pain. Thus the definition includes

items that cause or mask pain. Items that cause or mask pain generally have no place in racing, especially on a racehorse immediately before or during a race.

7870.0460 SECURITY.

The rule currently requires racetracks to maintain security which is “adequate to ensure the health, safety and comfort of all humans and horses at the racetrack facility.” The commission seeks to delete the word “comfort,” which is highly subjective, and replace it with “welfare.” This is more consistent with the commission’s mandate to ensure that a racetrack does not adversely affect the “public health, welfare and safety.” *See* Minn. Stat. §§ 240.06, subd. 4 and 240.07, subd. 3.

7870.0490 CARE OF HORSES.

The proposed modification would replace the outdated and restrictive term “crippled” with the words, “injured or disabled.” The horse ambulance is frequently used to transport horses that are sound but unable to walk off the racetrack. This includes, among other things, horses suffering from heat exhaustion, bleeding from the mouth (i.e. bit their tongue), or are simply too tired to continue, as well as equipment malfunction (i.e. saddle slippage, broken reins, lost shoe, etc.) There is also a minor non-substantive syntax change made to the rule for readability.

7870.0500 CONTRACT APPROVAL.

Subp. 3. Information required.

The current rule requires a racetrack to submit substantial additional information to the commission for its review of contracts of more than \$50,000 or 30 days in duration. The commission is proposing to raise this outdated threshold to \$100,000 or 30 days in duration. Many contracts for routine vendor services are now at least \$50,000 and this heightened review is not necessary for every contract. In addition, the commission does not need to collect birth dates and social security numbers from officers, directors or other individuals associated with racetrack vendors. It is burdensome for the racetracks to have to collect this personally identifying information from their vendors and keep it secure; they have expressed concerns about the potential liability of having this information on file. Subpart 1 of this rule already requires the racetrack to provide “any documentation, records, or information the commission may request with regard to the contract.” Therefore, this change is reasonable because it will simplify the contract review process and remove administrative burdens on both the racetracks and the commission.

7870.0850 SECURITY

The rule currently requires licensed county fair racetracks to maintain security which is “adequate to ensure the health, safety and comfort of all humans and horses at the racetrack facility.” The commission seeks to delete the word “comfort,” which is highly subjective, and replace it with “welfare.” This is more consistent with the commission’s mandate to ensure that a racetrack does not adversely affect the “public health, welfare and safety.” *See* Minn. Stat. §§ 240.06, subd. 4 and 240.07, subd. 3. The Revisor is also making a grammatical correction.

7871.0060 ALTERED OR MUTILATED TICKETS.

The rule provides that an altered or mutilated ticket that is not easily identifiable as being a valid ticket shall not be accepted for payment. However, changes in technology have given racetracks the ability to reliably track a winning wager back to a patron without having access to the physical ticket at

all. The totalizator systems can track a wager to a specific player or a specific transaction. If a customer can provide their player tracking number or present a ticket that at least contains a readable transaction number, racetracks can trace a missing or mutilated ticket back to the customer, cash that wager and lock that ticket from any future transactions. Hence the racetracks proposed this change because it will allow them to provide better customer service to their patrons. The rule would now allow an association to cash an altered or mutilated ticket if the wager can be reliably verified by other means.

7872.0100 APPLICATION FOR RACING DAYS.

Subpart 1. Submission of live racing days requests.

The commission is proposing to simplify the process for approval of live racing days by removing the requirement that racetracks submit 15 copies of their applications, which are typically quite lengthy. Racetracks would simply be required to submit one electronic copy instead. This will make the application process more efficient for both the racetracks and the commission.

Subp. 3. Revision of racing days.

Racetracks occasionally need to make changes to post times or the number of races on an assigned racing day. The rule currently requires them to submit a request to the commission's executive director five days before the proposed change. The racetracks have requested this be changed to three days because changes are not always known five days in advance. The change will allow the racetracks more flexibility to alter their race cards without impacting the public welfare or the integrity of racing. The commission director and staff are always available to review such a request on three days' notice.

Subp. 6. Submission of televised racing dates request.

The commission is proposing to simplify the process for approval of televised racing days, e.g. days in which wagering is conducted on races at other racetracks and viewed via simulcast signals. The change would remove the requirement that racetracks submit 15 copies of their applications, which are typically quite lengthy. Racetracks would simply be required to submit one electronic copy instead. This will make the application process more efficient for both the racetracks and the commission.

Item C is being deleted because it calls for the same information, listed in part 7872.0110, the racetracks must submit when applying for live racing days. There is no need for the racetracks to submit the same information twice. Moreover, the information listed in part 7872.0110 is more applicable to live racing conducted in Minnesota; host jurisdictions conduct this type of in-depth review of races conducted in their states and carried at Minnesota via simulcast. Instead, item D is amended to require them to submit any additional information the commission deems necessary to ensure a complete understanding of the request. In addition, the sending and receiving of interstate simulcast signals from "host tracks" where the races are conducted to tracks in other states is largely governed by the Interstate Horseracing Act, 15 U.S.C. § 3001 *et seq.* Many of the criteria in part 7872.0110 are irrelevant to the commission's decision whether to accept these simulcast signals.

Subp. 7. Variations to televised racing days within dates previously approved by commission.

This subpart is being amended to provide that the commission's director or deputy director, in addition to the director of pari-mutuel racing, may approve changes in a racetrack's simulcast program. The reference to the criteria for approving live racing days is removed because it is duplicative and unnecessary as explained above.

7873.0100 APPLICATION FOR PARI-MUTUEL POOLS.

Subpart 1. Submission of pari-mutuel requests.

This update would allow racetracks to submit one electronic copy of their request for pari-mutuel pools instead of 15 paper copies. This will make the process more efficient for racetracks and the commission.

7873.0130 PREVENTION TO START.

Item A is amended to allow wagers, which would otherwise be refunded because a horse did not get a fair start, to still be paid if the horse wins the race. It would also clarify that the horse would still receive any purse money earned, even if wagers were refunded. Language is deleted from items A and B because the totalizator companies are unable to comply with this rule without breaking protocol; they must either cancel out all wagers on a horse or none at all.

7873.0150 SCRATCHES.

References to “the daily double, pick six or pick three” are being deleted because rules governing these wagers were repealed in favor of a “pick (n)” rule promulgated in 2015 – part 7873.0196 – which has its own provision on scratched horses. Language is inserted to clarify that this rule now only applies to single-race wagers.

7873.0180 PERFECTA OR EXACTA.

Subpart 1. Scope.

Proposed changes will delete the obsolete term “perfecta.” The Revisor is also making a minor grammatical correction.

Subp. 2. **No winning combination sold.** Proposed changes will delete the obsolete term “perfecta.”

Subp. 4. **Refund of pool.** Proposed changes will delete the obsolete term “perfecta.”

7873.0189 PENTAFECTA.

Subp. 13. Displaying pentafecta rules.

The requirement to display and make pentafecta rules available to patrons upon request is already set forth in Minn. R. 7873.0230, which requires all commission rules regarding pari-mutuel wagering be available for inspection by the public during racing hours. Therefore this rule is duplicative and is being repealed.

7873.0196 PICK (N) WAGERS.

This rule was originally adopted verbatim from the ARCI model rule. Slight changes are now proposed to conform this rule to recent updates in the model rule which is attached as Exhibit B.

Subp. 6. Pick (n) pool payout methods.

Item G is in conformance with changes in the model rule to better provide how a winning jackpot bet is defined by requiring the Association to indicate up front, prior to the start of the meet, one of two ways in which the unique winning wager will be determined. The rule better codifies the existing practice in the state and provides for better documentation from the racetracks to the commission.

Subp. 7a. Unique winning tickets.

This new language is taken directly from the recent amendment to the model rule to define how unique winning tickets, as referenced in subpart 6, will be treated.

7873.0300 SIMULCAST WAGERING.

Subp. 3. Pari-mutuel pools.

This subpart is being repealed because it is unnecessary and duplicative to state in rule that racetracks must comply with the law on take-out and taxes.

7873.0550 DISTRIBUTION OF PURSE MONEY.

Subp. 6. Escrow Accounts.

The racetracks are currently required to keep nominating, sustaining, entry and starting fees in interest-bearing escrow accounts if fees for a race exceed \$15,000 or are due more than 180 days in advance of the race. This requirement is outdated and unduly burdensome for the racetracks. Hence the commission is proposing to change the term “escrow accounts” to “segregated accounts” and raise the threshold to \$100,000.

Over time, stakes purses have grown dramatically. In particular, Quarter horse races, where a significant portion of the purse is typically generated through nomination fees, have greatly increased in popularity over the history of racing in Minnesota and throughout the country. The requirement to segregate every race with more than \$15,000 in fees would result in the Association having upwards of 10 different segregated accounts each year, which is unnecessary and overly burdensome on the racetracks given the relatively low value and short time the funds are typically held. The \$100,000 threshold ensures that significant races worth a substantial amount of horsemen-contributed money have their money kept in segregated interest-bearing accounts. In all cases where funds are held for more than 180 days the funds would still be required to be kept in segregated interest-bearing accounts.

7875.0100 FACILITIES.

Subpart 1. Facilities.

The obsolete term “complaint desk” is being replaced with “information window.” Parts 7871.0070 and 7873.0230 require racetracks to have information windows “where complaints may be made by members of the public.”

Subp. 2. Maintenance.

The commission seeks to delete the word “comfort,” which is highly subjective, and replace it with “welfare.” This is more consistent with the commission’s mandate to ensure that a racetrack does not adversely affect the “public health, welfare and safety.” *See* Minn. Stat. §§ 240.06, subd. 4 and 240.07, subd. 3. Non-substantive syntax changes are also made so the rule reads better.

Subp. 6. Jockey’s and driver’s rooms.

Item A is deleted to remove the current restrictions on cell phones in the jockey’s and driver’s rooms, which are no longer practical or reasonable. Jockeys and drivers use their cell phones for legitimate reasons, such as viewing race replays or past performance data, which can help them in their profession. In addition, the rule as it exists is simply unenforceable given today’s technology. It should be noted that, in conjunction with this change, part 7877.0170, subpart 3, item D is also being updated to permit jockeys to have outside communication as long as it is not concerning the day’s races.

Item B is re-worded after the ARCI model rule, attached as Exhibit C, because the existing phrase, “secure the jockey’s room,” is vague and potentially over-broad. The new language gives better guidance as to how the associations must secure the jockey’s and driver’s rooms in the interest of racing integrity.

7875.0200 EQUIPMENT.

Subpart 2. Pari-mutuel central processing unit.

The reference to “the pick six” is removed because pari-mutuel central processing units or “totalizators” used at licensed racetracks now can and do display odds on all multi-race wagers, including the pick six.

Subp. 9. External Communications.

Obsolete language is being deleted. It is no longer necessary or practical to prohibit all telephone communication or messaging by persons at a licensed racetrack. When this rule was originally promulgated in 1984 there was a concern about “bookies” taking illegal off-track wagers. However, all races run at our licensed racetracks are now simulcast and/or televised, with live wagering permitted via electronic means from authorized simulcast facilities around the country or on-line advance deposit wagering. The Revisor’s Office is breaking this subpart into three separate items, A-C, for ease of reading.

7876.0100 ON-TRACK STABLING.

Subp. 9. Secure area.

The vague language “designated licensees” is deleted and replaced with a specific list of persons who may be admitted to the on-track stabling area. To maintain the safety and integrity of racing, the stabling area must be monitored, and persons with no need to be there should not be admitted. Items B and C are added to clarify that persons who have been issued a temporary pass or visitor’s pass may also be admitted.

7877.0110 PROCEDURE FOR OBTAINING CLASS C LICENSE

Subp. 4. Racing officials.

The current rule requires certain racing officials to have “20-20 vision (corrected).” The commission has learned that some people actually have better than 20-20 vision with or without correction. Thus the change would allow for them to have “at least” 20-20 vision instead of exactly 20-20 vision.

7877.0155 CONDITIONS PRECEDENT TO LICENSING.

Drug and alcohol testing of licensees is essential to maintaining the safety of racing for all participants. It allows the commission or stewards to mitigate risks to horses and riders by taking a person off their duties for the day when they are compromised by drugs or alcohol. In the past year, the commission has warned, fined and/or suspended several license holders due to drug use at the racetrack. Item F currently gives the commission authority to collect “blood, breath or urine” samples from licensees whose duties place them in a position of danger or who commit an act that endangers a horse or human. Breath testing has limited use – primarily screening for alcohol. Urine and blood testing are relatively costly and intrusive. Therefore, the commission would like to begin using saliva testing when appropriate. Saliva testing is fast, inexpensive and non-intrusive. It is also more difficult to cheat on a saliva test than a urine test. The commission anticipates that persons who test positive on a saliva test will be given the opportunity for a confirmatory urine or blood test. Information about saliva testing from one of our vendors is included as Exhibit D.

7877.0165 CREDENTIALS.

Subpart 2. Temporary pass.

The security of the stabling area is key to the safety and integrity of racing. Unauthorized persons could tamper with or be injured by race horses. Part 7876.0100 and the proposed new part 7878.0180 require racetracks to keep the stabling area secure and to admit only authorized persons.

This subpart currently allows a racetrack to issue a temporary pass, in lieu of a commission license, to an individual whose work is located in the stable area when the commission’s licensing office is closed. This has always been necessary because horsepersons often arrive on the grounds when the licensing office is closed and must be admitted to the stabling area so they can get their horses unloaded from trailers into the stables. The proposed change would allow racetracks to issue a temporary pass to the stabling area even when the commission’s licensing office is open. The racetracks proposed the change because it is not always practical for horsepersons to stop at the licensing office prior to unloading their horses. The change would also provide more flexibility by giving these horsepersons up to three days to get licensed instead of requiring them to do so as soon as the licensing office reopens.

New language is added to require the racetracks to verify the identity of the recipient and their need for a pass. Racetracks would also be required to provide the commission with a list of persons who are issued passes. Thus while the rules for admittance will be slightly loosened to accommodate the needs of horsepersons and their horses, the record keeping requirements will be strengthened to allow for better tracking of who has been admitted without a license and why. These amendments are necessary and reasonable because the commission must ensure that only authorized persons are in the stabling area and that everyone gets licensed in a timely manner.

7877.0170 DUTIES AND RESPONSIBILITIES OF CLASS C LICENSEES.

Subpart 2. Trainers.

A non-substantive update to item C will clarify a trainer's responsibilities with respect to the administration of medications and prohibited substances to racehorses. The term "overage" is added because an overage of a permitted therapeutic substance is considered a violation for which the trainer is responsible. The reference to chapter 7890 is added because the terms "positive test" and "overage" are both defined under Chapter 7890. This is a simple clarification of the current rule. "Positive test" specifically applies to those substances where there is no threshold (permissible level) in a race horse; "overage" refers to those therapeutic medications that have an established threshold associated with them.

Item F requires trainers to provide a current list of all their employees to the racetrack security office. The proposed amendment would require them to also provide this list to the commission, and would specify what information must be included on the list – name, occupation, license number, and local address or dorm room number. The requirement to provide a "current" list is clarified to state that an updated list must be provided to the stewards within 24 hours of any changes. After consulting with the racetracks, the commission determined the updated list should be provided to the stewards for the trainers' convenience, because their office is located nearest the barns and horsepersons. The commission needs this information because it often must timely locate or subpoena licensees when conducting an investigation or hearing. It will also help the commission ensure that all horsepersons are licensed as required. Finally, it will enable the commission to know who a trainer's employees are for purposes of enforcing the worker's compensation, I-9 immigration certification, and trainer responsibility rules.

Item O is amended to give trainers until 9:00 a.m. on race day to file their equine infectious anemia (EIA) test results for an entered horse. Horses are typically entered several days prior to race day and the existing rule requires this paperwork to be filed prior to entry or the horse may not be entered. That can be difficult when a horse is entered in advance and shipped to the track shortly before a race – particularly for stakes races in which horses may be entered several weeks in advance. This change will give trainers more flexibility without compromising the safety and integrity of racing.

Equine infectious anemia is a reportable, contagious disease with no vaccine available to prevent it. Horses with an initial positive EIA test are retested by state veterinarians and if positive on that test are either euthanized or permanently quarantined. Horses are routinely tested while on the grounds with results tracked by the racing secretary and commission veterinarian. Occasionally the test sample is taken shortly before the horse is entered, but results are not returned until after entry time. Modifying this rule would also allow these horses to enter a race with the knowledge that their EIA test has been submitted and results must be returned by 9 a.m. on race day.

Item P is updated to add a reference to the new rule on outbreaks of infectious or contagious equine diseases which was adopted last spring to provide enhanced entrance requirements during times of outbreaks. The rule is also amended to require the horse's health certificate to include the horse's temperature and most recent vaccination date for equine herpes virus (EHV-1). This change is being proposed along with updates to the stable entrance requirements that are being made as part of a separate rulemaking initiative.¹ EHV-1 is a potentially deadly, highly contagious disease that sometimes threatens horses stabled in close quarters at racetracks. There have been several outbreaks at racetracks in the last two years. Canterbury Park has long been requiring an EHV-1 vaccination within 120 days for horses entering their facility. The United States Trotting Association (USTA) requires an EHV-1 vaccination every 6 months for Standardbred race horses. Rectal temperature is being added to the entrance

¹ RD 4498, Proposed Permanent Rules Relating to Horse Racing; Stabling, Medication, and Veterinary Practices

requirement because it provides a good indication of the health of the horse at the time the health certificate was written, which in Minnesota is required to be within 10 days of shipping. This is also important at racetracks where many horses are commingled in a very small amount of space, which allows for easy transmission of disease.

New items U and V are proposed to prevent dangerous over-medication of horses that move from one trainer to another after being claimed in a claiming race under part 7883.0140 or 7884.0210. Corticosteroid and intra-articular joint injections are commonly used by trainers at the racetrack to decrease the wear and tear on a horse's cartilage, but they can have detrimental effects if used too frequently. Repeated unnecessary injections are hazardous to the health of a horse's joints.

It is not unusual for a horse to be claimed several times during the racing season and therefore change trainers multiple times. Horses that have recently changed trainers are statistically more likely to suffer catastrophic racing injuries. One reason is thought to be too-often repeated corticosteroid and intra-articular joint injections, which can have detrimental effects on a horse's joints and may forestall the diagnosis of underlying conditions causing lameness or inflammation.

Hence the new item U will require trainers to keep records for at least 30 days of all corticosteroid and intra-articular joint injections given to each horse in their control. And new item V will require trainers of claimed horses to provide these records for the benefit of the new trainer. The thirty-day record-keeping period reflects the duration of action for most joint injections. These rules would ensure that trainers of newly-claimed horses will know if specific joints were recently injected, and if so, when and with what substance. A new trainer will thus have the knowledge necessary to prevent overuse of joint injections which may do more harm than good and may cause medication overages in post-race testing.

Most of this language was previously adopted last spring as part 7883.0140, subpart 32. However, that part only applies to thoroughbred and quarter horse races. The commission has determined it would be more appropriate to move the language under this rule part which applies to trainers of all horses, including Standardbreds involved in harness racing. The language is updated to include intra-articular as well as corticosteroid joint injections. The language is also amended to require that records be provided to the commission veterinarian instead of the new trainer because that will make it more convenient for trainers and easier for the commission to enforce. Finally, language is added requiring the trainer to authorize the commission veterinarian to provide the records to the new trainer. This is needed because veterinary records are classified as private under Minnesota Statutes, § 156.082. The commission veterinarian plans to provide trainers a form to be used for this purpose.

New items U and V are patterned after a new model rule recently adopted by the Association of Racing Commissioners International upon the recommendation of the Racing Medication and Testing Consortium. The rationale and model rule language are attached as Exhibit E.

Subp. 3. Jockeys and apprentice jockeys.

A non-substantive syntax correction is being made to Item A. Item D is updated to allow jockeys to communicate with persons outside the jockey's room as long as it is not concerning the day's races. A total ban on outside communication, as the rule currently requires, is no longer practical or reasonable. The reason for the restriction on communication has always been so that jockeys may not engage in collusion. The updated rule will provide jockeys the ability to have some outside communication while still maintaining this safeguard. Item K is amended so that jockeys who miss races due to illness do not need to pass a physical examination before returning to racing. That requirement is unnecessary and overly burdensome.

Item L is amended to allow jockeys to have additional advertising on their clothing. This rule change was requested by the Jockey's Guild as a means for jockeys to earn some extra income. The Jockey's Guild provided the language, which expands permitted advertising to anything that does not conflict with other sponsorship agreements in place at the race meet. Existing limits on the size and location of advertising are maintained to preserve traditional racing decorum, to ensure that all jockeys and sponsors are treated the same, and to protect the design of owners' racing silks from infringement. In addition, similarly limited advertising will now be allowed on boots and collars. This change is supported by the racetracks and stewards. Background information submitted by The Jockey's Guild is attached as Exhibit F.

Items U and X are clarified to conform the rule to the model rules and existing practice. These are non-substantive clarifications.

7877.0175 DUTIES AND RESPONSIBILITIES OF RACING OFFICIALS.

Subpart 1. Racing Secretary.

Duplicative and obsolete language, requiring the racing secretary to make stall assignments, is being deleted from item B. Part 7876.0100, subpart 2 provides that *the association* is responsible for allocating stalls. The commission would like to give the associations more flexibility to determine how stalls are allocated and by whom. (In a separate rulemaking proceeding the commission is proposing to repeal part 7876.0100 which states that the racing secretary is responsible for stall allocation unless the association appoints a committee to perform that function.) It is not necessary that this task be performed by the racing secretary.

Item F is being deleted because it is obsolete. It required the racing secretary to maintain a list of horses that were entered but did not get to run in a programmed race. The intent was for these horses to be given preference the next time they entered. This provision is no longer necessary because all racetracks have gone to a preference system based strictly on dates; horses who have not raced in the longest time get preference in the entries.

Subpart 9. Patrol judge.

The proposal would eliminate the requirement that an association have a patrol judge and make it permissive instead. Due to televising and simulcasting, all races are now filmed from several different camera angles. The stewards and associations can view race footage in real time and can replay it as needed. Thus there is no longer a need for patrol judges stationed at elevated locations around the track to observe the running of the race.

7878.0120 LICENSING OF SECURITY OFFICERS

Subpart. 1. Notice of intent.

The commission is proposing to repeal this subpart requiring racetracks to notify the commission in advance of their intent to employ a security officer. This is unnecessary because all security officers are subject to licensing by the commission, which includes a review of their qualifications.

7878.0130 BASIC COURSE

Subpart 1. Applicant shall successfully complete basic course.

The racetracks requested this amendment because the existing rule is unworkable for them in practice. The rule currently requires security officers to undergo extensive training before they can be licensed by the commission. The racetracks would like to train security officers on-the-job, but they cannot employ any person who is not yet licensed by the commission. The amendment would allow new security officers to be licensed and begin working under supervision until they complete all of required training on the job.

7878.0150 STANDARDS OF CONDUCT FOR SECURITY OFFICERS

Subp. 1. Certain licensees must be POST Board licensed or POST Board eligible.

This rule requires any security officer who carries a firearm, or whose principal duty is to investigate violations of statute or rule, to be POST Board licensed or eligible. The racetracks requested this rule subpart be repealed because it is no longer necessary or practical. They are unable to find persons willing to work as security officers who have met the rigorous requirements to become POST board licensed or eligible. (These requirements are found at Minnesota Rules, Chapter 6700.) The carrying of firearms in public places is now permitted and regulated under Chapter 624 of Minnesota Statutes. The commission further agrees it is not necessary for employees who investigate violations of law or rule to be POST board licensed or eligible. In fact, the commission employs several investigators of its own that are not POST board licensed or eligible.

Subp. 1a. Carrying of firearms.

This rule requires a local police chief to be notified in writing when a security officer may carry a firearm. It predates the conceal-and-carry provisions of Minnesota Statutes, Chapter 624. The proposed update would simply require an association to provide the commission with a copy of the current conceal-and-carry permit for each employee who may carry a firearm on the grounds of a licensed racetrack. The commission could thus ensure that such persons are properly authorized to carry a firearm.

7878.0180 SECURED AREAS OF LICENSED RACETRACK GROUNDS

Patterned after industry model rules, this proposed new rule would specifically require racetracks to maintain continuous security in the stable area. Such security is vital to the safety and integrity of racing because unauthorized persons in the stable area could tamper with or be injured by racehorses. This is really just a slight enhancement and clarification of existing rules. Part 7870.0460 already requires racetracks to “maintain security which is adequate to ensure the health, safety, and comfort of all humans and horses at the racetrack.” And part 7876.0100, subpart 9 already provides, “The on-track stabling site is considered a secure area and only designated licensees are permitted within the confines of this area.” Proposed changes to that subpart, explained above, would permit persons with visitor’s passes or temporary passes to enter the stabling area. (Temporary passes, governed by part 7877.0165, subpart 2, are issued to persons who will be working in the stable area before they are able to get licensed.)

Subpart 1. Association to provide security.

The racetracks would now be specifically required to provide continuous security in the stable area and ensure that only authorized persons enter the stable area. They are already doing this by employing security personnel and cameras.

Subp. 2. Visitor's pass.

The rule would give the racetracks flexibility to admit visitors under certain limited conditions. Visitors would need to be guests of authorized association employees, the commission or its employees, or a licensed trainer or assistant trainer. The commission believes it is important for one of these categories of licensees, who generally are in positions of greater responsibility, to request the visitor's pass and remain responsible for the visitor while they are in the stable area. The applicable model rules are attached as Exhibit G.

7879.0100 QUALIFICATIONS AND APPOINTMENT OF STEWARDS

Subp. 2. Appointment and approval of stewards.

The proposed change would make the commission's director, rather than the remaining stewards, responsible for nominating a temporary steward in the event a steward becomes unable to serve. The director is in a better position to identify a replacement steward by consulting with directors in other states, the commissioners and staff, as well as the remaining stewards themselves. In emergencies, the director, rather than the director of pari-mutuel racing, is also better suited to designate a temporary steward. The amendment would make it clear that the commission must still approve the appointment of a temporary steward in any case.

7879.0200 AUTHORITY AND DUTIES OF STEWARDS

Subpart 1. General authority of stewards.

The proposed amendment to item E would add a reference to rules and replace the vague and outdated term "customs of the turf."

7883.0100 ENTRIES AND SUBSCRIPTIONS.

Subp. 2. Horse must be registered and eligible.

Item B is updated to clarify that the tattoo must be on the lip as specified by The Jockey Club and not located anywhere else on the body. Item B will now include microchip numbers as a means of identifying horses because all breed registries are now accepting or requiring microchipping as a means of identification. The requirement to file a certificate of bleeding with the racing secretary is removed because it is obsolete. Bleeding certificates are rarely provided by most jurisdictions including Minnesota. This information is now documented and provided online by the Incompass System horse identification program, a national database used by regulatory veterinarians.

Syntax changes are proposed and extraneous language is being deleted from items D and E. New items F and G are proposed to align with the model rules. Item F would prohibit a horse from starting a race if the entrance money has not been paid; this has long been a house rule at the racetracks. Item G would prohibit a horse from starting if it is not in sound racing condition as determined by the commission veterinarian. This is just a clarification of existing rules and practice. As set forth in Part 7877.0175, subpart 8, "The commission veterinarian shall conduct racing soundness examinations pursuant to part 7891.0100. If the veterinarian finds that any horse is unfit to race the veterinarian shall notify the stewards immediately in writing." To maintain the safety of racing, the stewards routinely scratch all horses found to be unfit to race.

Subp. 2a. **Prohibited Starters.**

This new subpart is proposed to specify certain conditions under which a horse will not be permitted to start. Item A is moved from Subpart 6 so that a horse may now be *entered* by an unlicensed person but may not *start* until the person is licensed. This will benefit horse owners and trainers who sometimes need to enter their horses prior to arriving at the racetrack.

Item B is patterned after the model rule, providing that horses may not start if they are on the starter's list, stewards' list or veterinarian's list. It simply reinforces the following related commission rules:

- **Part 7877.0175, subp. 3, item C**, provides, "The starter shall require and supervise schooling in the starting gate for any horse not sufficiently trained in starting gate procedures to ensure a fair and safe start. The starter shall maintain a list of any horses so ordered, and those horses shall be ineligible to start until they are sufficiently schooled in starting gate procedures and until the starter has removed their names from the schooling list."
- **Part 7879.0200, subp. 2, item F** requires the stewards "To require proof of eligibility of a horse or person to participate in a race if the eligibility is in question and, in the absence of sufficient proof to establish eligibility, to rule the horse or person ineligible."
- **Part 7877.0175, subp. 8** provides, "The commission veterinarian shall maintain a list of the following: ... horses that are otherwise considered unfit to race in the professional judgment of the commission veterinarian."

Subp. 4. **Entering procedure.**

The proposal would eliminate the outdated term "telegraph" from item B and add the new term "electronic means." It would also require an entry to be confirmed in writing only if requested by the stewards or racing secretary. In practice, entries are frequently taken by telephone or e-mail and there is normally no need to have them confirmed in writing. Thus the commission would remove this requirement but still permit the stewards and racing secretary to require signed entries in certain races or situations where it is necessary to preserve the integrity of racing.

Subp. 6. **Prohibited entries.**

An update to item D would now allow an unlicensed person to enter a horse, unless their license has been revoked or denied. The way the rule currently reads, no unlicensed person may enter a horse. This is unworkable for people who need to enter their horses in advance of a race before they arrive at the track to get licensed. The change is made in concert with the proposed new subpart 2a, which provides the horse may not *start* in a race until its owner and trainer are licensed. New items F-I provide additional reasons a horse may not be entered, taken from the industry model rule. These items are needed to prevent fraudulent entries or entries by ineligible persons. The applicable model rule is attached as Exhibit H.

Subp. 19. **Commission's access to entered horses.**

Most Thoroughbred and Quarter horses are continuously stabled on the grounds of the racetrack, where the commission veterinarian and security officers can and do monitor them for compliance with the rules. This new rule part would apply to horses that are entered to race at a licensed racetrack but are being kept off the grounds. (Part 7876.0110, subpart 3 provides that horses kept off the grounds must be shipped to the racetrack on the morning of their race.) Under this proposed new rule, the Stewards may require any *entered* horse to be brought to the grounds any time prior to its race. This would discourage trainers from keeping horses off the grounds in order to evade medication rules. It would subject horses

stabled off the grounds to the same oversight as horses stabled on the grounds -- once they are entered to race. (Horses are typically entered 4 to 7 days prior to the race.) It would give the commission veterinarian the same ability to examine and test all horses prior to race day.² This may lead the Stewards or Commission Veterinarian to suspect the use of illegal medications or treatments which may be detected or prevented if the horse were on grounds. It also would allow the Commission Veterinarian to more closely monitor horses that have a history of medication violations, horses that performed poorly in their last race or workout, and horses that may have a medical condition -- such as intermittent atrial fibrillation -- that doesn't preclude entry but needs to be followed closely.

7883.0120 DECLARATIONS AND SCRATCHES

Subpart. 1. Procedure for scratching horses.

The commission is proposing to delete the outdated term "declarations" which is no longer commonly used. (It means the same thing as scratches.) The racetracks proposed deleting item D which is unnecessary. Based on reports from other jurisdictions and experience within Minnesota, also-eligibles are better handled through the racetrack's preference date system. The existing rule is overly burdensome and clumsy given how entries are currently drawn. Entries are now given preference by how long it has been since the horse last raced. If a horse is drawn from the also-eligible list (due to other horses being scratched) and does not race, it loses its preference date. Thus it is unnecessary to require these horses to race.

Subp. 7. Declarations are irrevocable.

The commission is proposing to repeal this subpart because it is obsolete and no longer needed. The term "declarations" is no longer used.

7883.0130 PENALTIES AND ALLOWANCES

Subpart 1. Determining penalties and allowances.

This subpart governs "penalties" that attach to horses when they win a race. When a horse wins a race, the "penalty" means it is no longer eligible for certain conditioned races that are limited to, for example, non-winners or non-winners of two races. Item G address how penalties are assigned when the winner of a race is in dispute. The amendment would remove the vague language providing that the penalty attaches to "any horse claiming the race." The rule would now specify that the first and second place finisher are liable for penalties until any dispute is resolved. This will essentially be a non-substantive change that will make the rule more clear and workable in practice.

7883.0140 CLAIMING RACES.

Subpart 1. Who may claim.

The proposal would greatly simplify the claiming process so that any licensed owner may claim a horse and an applicant for an owner's license may claim a horse as long as they execute a claim form and complete the licensing process in a timely manner. The current language is edited to make it clear that a claimant must pass a preliminary background check and must timely complete the licensing process. The

² Minn. R. 7892.0120 provides that test samples may be taken from horses on the grounds of a licensed racetrack as designated by the stewards or commission veterinarian at any time, and owners or trainers must submit the horse for testing immediately.

current restrictions on claiming are not necessary and not good for racing. The commission desires to encourage new horse owners to get into the sport, and the existing “barriers to entry” are unnecessary to protect against undesirables. The licensing process and pre-approval of claiming authorizations can achieve that purpose.

Subp. 8. Voided claims.

The current rule makes a claim automatically void if the horse suffers a fatality during the running of the race or is euthanized for certain musculoskeletal injuries directly after the race. The proposed update would provide that a claim is voided if a horse dies or is euthanized within an hour of racing. It would also require the claim to be voided if the horse is placed on the vet’s list for a musculoskeletal injury within one hour of racing, unless the claimant had waived that right upon filling out the claim form. The commission intends to use a new claim form that informs claimants of these rights.

The proposed changes simplify the rule while at the same time slightly expand the reasons for voiding a claim. Claims would now be voided on horses that die from other medical events such as atrial fibrillation, aortic rupture, and exercise induced pulmonary hemorrhage (EIPH), in addition to being euthanized for musculoskeletal breakdowns. Claims would also be voided for horses placed on the veterinarian’s list for musculoskeletal injuries within an hour of racing – unless the claimant knowingly waived that right. For example, claimants would likely waive that right if they were claiming the horse for breeding rather than racing purposes. All claimed horses are already routinely sent to the test barn for post-race testing, so the commission veterinarian will easily be able to assess them during the hour following the race.

These changes are necessary to protect the safety and welfare of horses. While the majority of trainers are honest and careful about their horses’ wellbeing, a few are less scrupulous and may knowingly enter or “dump” an unfit horse into a claiming race simply to be rid of it. The rules must discourage this practice. Statistics show that horses running in claiming races are more likely to suffer catastrophic breakdowns. The commission veterinarians catch most of these horses in their pre-race inspections and assessments of racing condition. However, some medical issues, in particular cardiac events, are silent until the horse is stressed by racing. In addition, career-ending musculoskeletal events that occur during a race often don’t become evident for a short time after the race when the effects of adrenaline wear off and the horse exhibits signs of pain or discomfort.

7883.0150 PADDOCK TO POST.

Subpart 1. Horses must have identifying equipment.

The references to head numbers are removed because the requirement of a conspicuous saddlecloth number makes head numbers unnecessary and hence they are no longer used. The word “coupled” is inserted into the second paragraph to clarify its meaning. The last sentence pertaining to fields is deleted because fields are no longer used. Modern totalizator technology is able to reflect all horses in a race without the need to lump them together into one entry called a “field.”

7883.0160 POST TO FINISH.

Subp. 7. Determination of disqualifications.

A new Item C is proposed so it is clear in light of Item B that the stewards may disqualify any commonly-owned horse, whether or not racing as a coupled entry, if it is in the interest of racing integrity

to do so. This clarifies the stewards' general authority to determine all questions relating to racing matters, found in part 7879.0200, subp. 1, item B. The current practice in most states to uncouple horses with common ownership helps increase the number of betting interests in a race thus making the race more attractive to fans who wager. This rule provides a remedy on the rare occasion when an uncoupled horse causes interference, or the rider deliberately interferes with another horse, to benefit the other commonly owned horse.

7884.0120 ELIGIBILITY AND ENTERING.

Subp. 16. Entered horse to be on grounds.

A new subpart 16 is proposed to require entered horses to be on the grounds at a prescribed time prior to racing. This rule is specific to Standardbred racing where many of the horses are stabled off site and shipped in on race day. It would allow the stewards to establish a time when all entered horses must be on the grounds, provided that they must arrive at least 5 hours prior to the first race. The time of five hours coordinates with furosemide administration, which begins approximately 4 and ½ hours prior to the first race. (Furosemide is the only medication permitted on race day and it is administered under commission supervision.) It also gives the commission veterinarian adequate time to process the certificates of veterinary inspection and physically examine the horses prior to the onset of racing.

Subp. 17. Commission's access to entered horses.

Under this proposed new rule, identical to that proposed at part 7883.0100, subpart 19 for thoroughbred and quarter horse racing, the Stewards may require any *entered* horse to be on the grounds of the racetrack any time prior to the race. (Horses are typically entered 4 to 7 days before the race.) This would discourage trainers from keeping horses off the grounds in order to evade medication rules. It would subject horses stabled off the grounds to the same oversight as horses stabled on the grounds -- once they are entered to race.³ It would give the commission veterinarian the same ability to examine and test all horses prior to race day. This may lead the Stewards or Commission Veterinarian to suspect the use of illegal medications or treatments which may be detected or prevented if the horse were on grounds. It also would allow the Commission Veterinarian to more closely monitor horses that have a history of medication violations, horses that performed poorly in their last race or workout, and horses that may have a medical condition -- such as intermittent atrial fibrillation -- that doesn't preclude entry but needs to be followed closely.

7884.0140 COUPLED ENTRIES.

Subpart 1. Horses to be coupled as an entry.

This rule addresses when two or more horses must race "coupled," or combined as a single betting interest. Coupling is more often required in harness racing in order to eliminate the possibility or appearance of collusion between commonly-owned horses, or otherwise interlocking interests among owners, trainers and drivers. The proposal would simplify the coupling rule for harness racing by removing the requirement that horses trained by the same trainer must be coupled. It is not always necessary to couple horses trained by the same trainer as long as they have different owners; Subpart 2 of this rule already provides that the stewards may still couple any two or more horses when they consider it in the public interest to do so.

³ Minn. R. 7892.0120 provides that test samples may be taken from horses on the grounds of a licensed racetrack as designated by the stewards or commission veterinarian at any time, and owners or trainers must submit the horse for testing immediately.

Subpart 4. **Program notes.**

This new subpart would specifically require program notes whenever any two or more horses in a race have a common owner or trainer. It is important for the betting public to have this information, which is already routinely printed in programs. This is not a significant substantive change as the language is moved from subpart 1.

7884.0170 SCRATCHES.

Subpart 1. **Judges to approve scratches.**

The term “stewards” is substituted for “judges” because Minnesota Statutes, section 240.01, subdivision 21 defines “steward” to include the terms “judge,” “chief steward,” and “presiding judge,” and states the term “applies to stewards and judges of the commission.” This is a change being made throughout chapter 7884 where the term “judge” has been used intermittently.

Subp. 3. **On advice of veterinarian.**

The term “stewards” is substituted for “judges” as explained above. References to “association veterinarian” are removed. The associations have never hired their own veterinarians and the commission is proposing to repeal this license type in a separate rulemaking proceeding.⁴

The time on the veterinarian’s list is changed from five to seven days for a horse scratched for medical reasons. This change is part of a movement towards national unity. The majority of Standardbred horses are placed on the Veterinarian’s List for soundness issues which take far longer than five or even seven days to diagnose and treat. Respiratory tract issues are the primary reason for placing horses on the Veterinarians List as “ill” and this rule would allow them a minimum of seven days between races for the respiratory mucosa to heal. This is necessary as the recommended recovery time for most viral illnesses in horses is 7-14 days. Bacterial diseases, which are less common, often take much longer.

Subp. 4. **Scratched as unsound.**

The term “stewards” is substituted for “judges” as explained above. Proposed new language would clarify that horses re-qualifying after being scratched as unsound may be drug tested following qualifying races. Horses participating in a qualifying race are doing so as a condition of entry or for removal from the Veterinarian’s List. These horses should participate fairly and equitably under the same conditions as required for racing, with no medications in their system other than those allowed in a post-race sample under Chapter 7890. This rule is necessary to ensure that horses in participating in qualifying races are running without medications to mask pain or unsoundness, just as they must do when racing.

Subp. 5. **Horse off grounds scratched.**

This proposed new subpart would provide a potentially longer time on the veterinarian’s list for a horse scratched for medical reasons without documentation timely presented to the commission veterinarian. Horses entered to race occasionally become ill or otherwise unable to race for a veterinary-related problem. When this happens to a horse on the grounds of a licensed racetrack, the commission veterinarian examines the horse and verifies whether it is necessary to scratch the horse from racing. However, harness horses frequently ship in from an off-grounds location on the day of racing. When these

⁴ RD 4498, Proposed Permanent Rules Relating to Horse Racing; Stabling, Medication, and Veterinary Practices

horses are not on the grounds, the commission veterinarian is unable to verify whether they really need to be scratched. When that occurs, a private veterinarian must be consulted regarding the medical problem and appropriate documentation provided to the commission veterinarian. This rule is necessary to prevent trainers from using a false claim of illness or injury as a reason to scratch a horse because they do not like their horse's post position, weather forecast, race time, or other non-veterinary issue.

7884.0190 QUALIFYING RACES

Subp. 2. Horses required to compete in qualifying races for race meets longer than two weeks.

Subpart F is amended to allow previously-qualified horses, who are attempting to add or remove hobbles, to remain qualified even if they fail to qualify under the new condition. This will benefit horses and trainers by removing the risk of forfeiting the right to race with their normal equipment when attempting to qualify with different equipment.

7884.0210 CLAIMING RACES.

Item A is edited to clarify that only this chapter, 7884, applies to harness claiming races; claiming rules set forth elsewhere in Minnesota Rules, specifically those in Chapter 7883 applicable to Thoroughbred and Quarter horse racing, do not apply.

Edits to item D, subitem (1) are consistent with those being made to the Thoroughbred and Quarter horse claiming rule. The current rule makes a claim automatically void if the horse suffers a fatality during the running of the race or is euthanized for certain musculoskeletal injuries directly after the race. The proposed update would provide that a claim is voided if a horse dies or is euthanized within an hour of racing. It would also require the claim to be voided if the horse is placed on the vet's list for a musculoskeletal injury within one hour of racing, unless the claimant had waived that right upon filling out the claim form. The commission intends to use a new claim form that informs claimants of these rights.

The proposed changes simplify the rule while at the same time slightly expand the reasons for voiding a claim. Claims would now be voided on horses that die from other medical events such as atrial fibrillation, aortic rupture, and exercise induced pulmonary hemorrhage (EIPH), in addition to being euthanized for musculoskeletal breakdowns. Claims would also be voided for horses placed on the veterinarian's list for musculoskeletal injuries within an hour of racing – unless the claimant knowingly waived that right. For example, claimants would likely waive that right if they were claiming the horse for breeding rather than racing purposes. All claimed horses are already routinely sent to the test barn for post-race testing, so the commission veterinarian will easily be able to assess them during the hour following the race.

These changes are necessary to protect the safety and welfare of horses. While the majority of trainers are honest and careful about their horses' wellbeing, a few are less scrupulous and may knowingly enter or "dump" an unfit horse into a claiming race simply to be rid of it. The rules must discourage this practice. Statistics show that horses running in claiming races are almost twice as likely to suffer catastrophic breakdowns. The commission veterinarians catch most of these horses in their pre-race inspections and assessments of racing condition. However, some medical issues, in particular cardiac events, are silent until the horse is stressed by racing. In addition, career-ending musculoskeletal events that occur during a race often don't become evident for a short time after the race when the effects of adrenaline wear off and the horse exhibits signs of pain or discomfort.

Language is stricken from subitem (2) that is now included in subitem (1). A new provision is added to require horses scratched from a claiming race to run back at the same price or less if they start again in the next 30 days. This change was requested by the stewards in order to deter owners from scratching horses in order to avoid claims. The majority of harness racing states have a similar rule.⁵

Item E is amended to provide that if a claimed horse tests positive for a medication violation, the claimant may elect to void the claim. The claim could be voided within 72 hours if the initial forensic testing of the claimed horse showed a medication violation. A claim could not be voided if, after coming under the custody of the claimant's trainer, the horse has already run for the claimant or has died. The proposal would specify that the claimant is responsible for the horse's expenses from the time the horse is transferred to the claimant until the horse is returned to the prior owner following voidance of the claim. This is patterned after a change made last year to the Thoroughbred and Quarter horse claiming rule. It is based on rules in place in other racing jurisdictions and is supported by the commission's stewards. Equity requires that a party who claims a horse that was illegally medicated should have the right to void the claim.

7884.0250 RECALLS.

Subp. 4. Inquiry into failure to sound recall.

Language is proposed to clarify that a horse interfered with prior to the start of a harness race will be declared racing for purse money only. The stewards proposed this change to fairly address the unusual situation in which the starter fails to sound a recall and the stewards determine a horse was interfered with prior to the start. Those who wagered on the horse should not be penalized by the starter's failure to recall the start, and the horse's owner should be entitled to purse money earned despite the compromise to the horse's chances.

7884.0260 DRIVING RULES.

Subp. 2. Conduct after word "go" is given.

Whipping rules are modified at the request of the stewards to align with rules and trends in leading harness racing states and industry best practices. Excessive whipping is increasingly seen as harmful to horses and damaging to the image of the sport. There is currently a national movement toward reducing unnecessarily harsh whipping. Item T is simplified to state that no one-handed whipping is permitted. This will be clearer, simpler and easier to enforce than the existing rule. Prevailing best practices require harness drivers to keep their steering lines in both hands and use them to whip by wrist action only. Item W is thus amended to require drivers to keep both lines in their hands until the finish of the race, instead of just until the 7/8 mark. For an example of a similar rule in a leading harness racing state, see Exhibit I. The harness horsepersons' group has reviewed and supports these amendments.

Extraneous and duplicative language is deleted from Item X.

Subp. 4. Lapped on break.

The antiquated term "set back" is replaced by the more current term, "place." A sentence is added to clarify that placing a horse is always at the discretion of the stewards. This is not a substantive change. It is impossible to anticipate all scenarios where a horse may or may not gain an unfair advantage. That is

⁵ See for example, Illinois Administrative Code, Title 11, section 510.170.

why the stewards must have discretion to determine placement in a horserace, much like a baseball umpire calling balls and strikes.

Subp. 7. Use of stirrups.

The rule is modified to allow a driver to remove a horse's earplugs with his or her feet. The stewards requested this change as an exception to the requirement that a driver must keep his or her feet in contact with the stirrups, posts or pegs until the race has been completed. See Exhibit J for an example of a similar rule from a leading harness racing state.

7884.0270 EXPANDED HOMESTRETCH RACING.

Subp. 2. Rules.

The pylon rule is slightly adjusted to allow a horse or sulky to go over a pylon as long as they do not go inside one or more pylons. Pylons define the inner part of the track at various points of the racing oval and are most critical in the homestretch passing lane which can only be used by trailing horses with clearance of the pylons.

Chapter 7897 will now be called "Prohibited Acts, Sanctions and Appeals," and will include license holders' rights to appeal any sanction to the commission or in some cases a contested case hearing.

7897.0100 PROHIBITED ACTS.

Subp. 6a. Hostile acts.

The commission is proposing to define more specifically an offence which is routinely sanctioned by the stewards under their general authority but not specifically enumerated in this rule part – engaging in conduct or using language that is threatening, harassing or abusive toward a person or animal on the grounds of a licensed racetrack. The stewards have sanctioned abusive conduct that may or may not rise to the level of a physical altercation and may not have been adjudicated a violation of civil or criminal law.⁶ There is authority for this under part 7877.0155, item H ("the licensee will conduct himself or herself in a manner that is not detrimental to the best interests of racing") and part 7877.0100, subpart 2 ("licensure will not adversely affect the public health, welfare, and safety"). For example, this past year there were incidents involving abuse of horses and use of foul language by licensees in view of the public. These types of acts threaten the image and integrity of the sport and should be subject to discipline. The proposed language would clarify the commission's authority to impose administrative sanctions in these situations. See Exhibit K for an example of a similar rule in another state and rulings that have been issued for this type of offense.

Subp. 22. Use of non-recognized racing equipment.

A new prohibited act is proposed to limit the use of non-recognized racing equipment on race day without approval of the stewards in consultation with the commission veterinarian. Non-recognized racing equipment will be defined under the new part 7869.0100, subpart 40a. Most non-recognized racing equipment has no place in horse racing. Some items that trainers have used are designed to relieve human pain, such as kinesiology tape. Some devices, such as rubber bands around the hocks or used as a tongue tie, cause a degree of uncomfortableness which may irritate a horse and cause it to run faster. A few things, such as hog castration rings implanted in a horse's nasal mucosa and tied together in an effort to

⁶ The commission and racetracks bring in local law enforcement when necessary and appropriate.

make it breathe better are clearly inconsistent with equine welfare. This proposed rule change would prevent these and other items from being used on a horse on race day or worse yet, from simply appearing on a horse during a race. At the same time, it doesn't prohibit all non-recognized equipment and allows a trainer the opportunity to discuss the use of a piece of equipment that may be beneficial to a specific horse with the stewards and commission veterinarian.

Subpart 23. Chain shank.

A new prohibited act is proposed to require the oral portion of a chain shank to be covered with a soft non-abrasive material. This has always been enforced by the racetracks as a "house rule" up until now. A chain shank is a 6-8 foot leather or nylon rope with an attached 3-4 foot portion of chain typically used to lead horses. The chain portion is generally threaded through the halter and across the surface of a horse's upper gums in an effort to provide additional control of the horse. Any pull or tug on the lead rope results in tightening of the chain with corresponding pain and eventual damage to the gums and mucosa. Each pull results in more damage until the gums are bruised and bleeding. Covering the portion of the chain that contacts the mouth and gums with a soft, non-abrasive material can prevent this. The handler is still able to control the horse but far less damage is done to the mouth and gums.

7897.0110 USE OF DRUGS AND ALCOHOL.

Subpart 1. Drugs.

The proposal would add saliva testing to the commission's drug testing authority for certain occupational licensees, consistent with the change being proposed to part 7877.0155. Drug and alcohol testing of licensees is essential to maintaining the safety of racing for all participants and is a condition of licensing under part 7877.0155. In the past year, the commission has warned, fined and/or suspended several license holders for drug use or refusal to take a drug test.

The rule currently gives the commission authority to collect "blood, breath or urine" samples at any time from licensees having direct physical contact with horses or direct responsibility for some portion of the day's racing program, licensees whose duties place them in a position of danger, and licensees who commit an act that endangers a horse or human. Breath testing has limited use – primarily screening for alcohol. Urine and blood testing are relatively costly and intrusive. Therefore, the commission would like to begin using saliva testing when appropriate. Saliva testing is fast, inexpensive and non-intrusive. Our testing company has also advised us that it is more difficult to cheat on a saliva test than a urine test. The commission anticipates that persons who test positive on a saliva test will be given the opportunity for a confirmatory urine or blood test. Information about saliva testing from one of our vendors is included as Exhibit D.

The commission would also like to remove the requirement that a licensee who refuses a drug test must appear before the commission to show cause. This is the only type of violation of law or rule that calls for a licensee to appear directly before the commission. For all other violations, a licensee must appear before the stewards pursuant to part 7897.0150. Under part 7879.0200, the stewards have plenary authority over all matters related to racing. The stewards work closely with commission investigators to supervise, control and regulate race meetings. The commission invested a lot of time and resources in these "show cause" hearings last year, which it believes was unwarranted and unnecessary. The stewards are capable of adjudicating this violation just like any other. However, the commission is proposing to designate it as a "serious violation." Serious violations, defined in part 7897.0130, subpart 2 as, "a failure to comply with law or rule when the failure has a substantial adverse effect on the integrity of pari-mutuel horse racing, public welfare, health or safety." The commission believes refusal to cooperate with a drug

test, which is essential to racing safety and integrity, and is a condition of licensing, clearly falls into this category.⁷

7897.0120 DISCIPLINARY SANCTIONS.

Subpart 1. Licensees.

The commission is proposing to clarify that a licensee may be sanctioned for any violation of Minnesota Statutes, chapter 240 or the commission's rules. Under their general authority in Chapter 7879, the stewards frequently issue fines or suspensions for violations of rules other than those found in chapter 7897. For example, fines and suspensions are often issued for careless riding or misuse of the riding crop under part 7883.0160. Language is also added to clarify that the commission or stewards may place conditions on a license as reasonably necessary to ensure the integrity of racing and the health, safety and welfare of its participants. This will give the stewards and commission an additional option short of suspension or revocation so that a licensee can continue to practice their profession under conditions to ensure safety, integrity and compliance. For example, licensees may be required to undergo an evaluation for substance abuse and/or submit to extra screening to ensure they are participating safely.

The commission is adding language to this subpart to specify that sanctions may be imposed after a license expires for conduct that occurred when the license was in effect. This is needed because, under Minnesota Statutes, section 240.08, subdivision 4, a license is only effective until December 31 of the year in which it was issued. It is sometimes difficult for the commission to afford hearings and appeals as provided in this chapter and issue its final decision before the license expires. Finally, the commission is proposing to add language making it clear that, in determining the type of sanction to issue, it must always consider the nature, chronicity and severity of the violations and their effect on the safety and integrity of racing. While this goes without saying, because any agency action must be supported by substantial evidence, it is best to state it clearly in the rule. This language is patterned after that found in Minnesota Statutes, § 245A.07, subdivision 1 applicable to the state's largest administrative agency.

Subpart 4. Effect of sanctions.

This new subpart is proposed to place certain restrictions on future licensing of individuals who have been sanctioned; it also provides that some individuals may not be allowed to benefit financially from racing until their licenses are restored to good standing. These provisions are based on established practices in racing and other industries, and are rooted in Minnesota Statutes § 240.05, subdivision 3, which states, "it is the intent of the legislature that authority granted by law to the commission to issue licenses not be construed as requiring the commission to issue any license."

Item A provides that an individual whose license has been denied shall be ineligible to apply for a license from the commission for two years. This is patterned after Minnesota Statutes, section 245A.04, subdivision 7 (e)(2), which states that the commissioner of Human Services may not issue a license to an individual whose license has been denied in the last two years. It is reasonable and necessary to prevent the commission from continually expending resources on denials for applicants who are ineligible for licensure. The commission always advises applicants upfront when they are ineligible for a license and gives them the opportunity to withdraw their application. Nearly all such applicants do so. For the very few applications the commission must deny, there is an extensive review by commission staff and a committee of commissioners, followed by a hearing before the full commission, at which the applicant has the right to present witnesses and evidence. Then there is the right to an appeal hearing under part

⁷ In Washington state, a first-time violation of this rule calls for immediate ejection from the grounds and a one-year suspension; subsequent offenses result in revocation. *See* WAC 260-34-020 (7).

7897.0155, which also requires significant time and expense. For an applicant who is denied a license following this extensive due process, it is unnecessary and burdensome to have to repeat the procedure frequently.⁸

Item B similarly provides that an individual whose license is revoked shall be ineligible to apply for another license for five years. Again, this is patterned after Minnesota Statutes, section 245A.04, subdivision 7(e)(3), which provides the commissioner of Human Services may not issue a license to an individual whose has had a license revoked within the past five years. Revocation is the most serious sanction; the commission has not revoked a license for several years now. Prior to revocation, a licensee would likely be fined, suspended or have conditions placed on their license – all sanctions which would come with their own appeal rights. A revocation would be extensively reviewed by commission staff, a committee of commissioners and finally by the full commission. Chapter 7897 and Minnesota Statutes, section 240.08, subdivision 5 then provide for appeal rights, including the right to a contested case hearing.

Item C provides that an individual whose license has been revoked or suspended, and not restored to good standing, is excluded from the grounds of all licensed racetracks under the jurisdiction of the commission. This is the prevailing rule or practice among all racing jurisdictions in the United States. See Exhibit L for examples of rulings that illustrate this. A person whose license has been suspended or revoked has been found to be a threat to the safety or integrity of racing and therefore should not be on the grounds. If they were allowed on the grounds they could circumvent the suspension or revocation by continuing to exert influence over horses or other racing participants; or they could give the perception of doing so, which would be detrimental to the reputation of the sport.

Item D provides that an individual who has not paid or timely appealed a fine shall be ineligible for licensing until the fine is paid. This has always been the practice of the stewards in Minnesota and other jurisdictions. This rule would reinforce Minnesota Statutes § 240.08, which provides that an applicant for a license must sign an affidavit stating they are not in default in the payment of a debt or obligation to the state under Chapter 240 as it was originally enacted.

Item E is added to prevent a licensee from circumventing a sanction by continuing to benefit financially from racing. This concern is also addressed by part 7877.0185, which states that “the transfer of a horse in an effort to avoid application of a commission rule or ruling is prohibited.” This has long been an integrity issue in horseracing and similar rules are in place in most other racing jurisdictions. The language is taken from the industry model rule which is attached as Exhibit M. Similar rules from other states are also included in Exhibit M.

7897.0130 SCHEDULE OF FINES.

Subp. 4. Serious violations.

The change would make refusal to take a drug test a *per se* serious violation as discussed above.

⁸ The commission recently successfully defended denials of license applications at the Minnesota Court of Appeals two years in a row from the same applicant. That individual continued to apply for new licenses while the appeals of his previous denials were still pending. There is currently nothing to prevent this. This was an individual who had previously pled guilty to mistreating horses and had falsified his license application.

7897.0150 DISCIPLINARY AND APPEAL PROCEDURES

This part will now be titled simply “disciplinary procedures” as appeal procedures are moved and addressed in a separate rule part.

Subp. 2. Penalties imposed by stewards.

Items B and C are moved under a new subpart 10 which will now apply to penalties for medication violations issued by either the stewards or the commission. This is needed because some violations are appealed to the commission and it is the commission that issues the final penalty. The provisions regarding aggravating and mitigating factors should apply to all penalties, regardless of whether they are ultimately issued by the stewards or commission. The language is not changed but is broken into 4 separate items for readability.

Subp. 3. Appeal to commission.

This subpart is being repealed and language is moved under a new part 7897.0155, subpart 1, which will address appeals of all sanctions to the commission.

Subp. 4. Review or appeal by commission, director or deputy director.

Again, as part of the effort to move all appeal provisions under one rule part, this subpart is moved and renumbered as part 7897.0155, subpart 2.

Subp. 5. Stays of stewards’ decisions.

This subpart is repealed and language is moved under the new part 7897.0155, subpart 3.

Subp. 6. Procedure for appeal of decision of stewards.

This subpart is repealed and language is moved under the new part 7897.0155, subpart 4.

Subp. 7. Deposit shall be required.

This subpart is moved and renumbered as part 7897.0155, subpart 5.

Subp. 8. Commission shall set date for hearing.

This subpart is repealed and the language is moved under the new part 7897.0155, subpart 6.

Subp. 9. Appeal by commission.

This subpart is moved and renumbered as part 7897.0155, subpart 7.

Subp. 10. Penalties imposed by stewards or commission for medication violations.

As explained above, this is a new subpart is created with language moved from part 7897.0150, subpart 2, items B and C. The language pertaining to the penalty guidelines,⁹ and aggravating and

⁹ Minn. R. 7869.0200, subp. 2 provides that the Association of Racing Commissioners International penalty guidelines are incorporated by reference.

mitigating factors, will now apply to any sanction, whether issued by the stewards or the commission. This is necessary because rulings may be appealed to the commission and the commission may issue the final decision. The commission must also apply the appropriate penalty guidelines and aggravating and mitigating factors. The language is also broken into 4 items instead of 2 for readability.

7897.0155 APPEAL TO COMMISSION

This new rule part will separate out all provisions on appeals to the commission. Most of the language is moved from part 7897.0150.

Subpart 1. Appeals.

Language is moved here from the existing part 7897.0150, and is simply broken into 3 items and amended to clarify that any license denial or sanction can be appealed to the commission, in addition to a stewards' ruling.

Subp. 2. Review or appeal by commission, director, or deputy director.

This language is moved directly from the existing part 7897.0150, subp. 4.

Subp. 3. Stays of stewards' decisions.

This language is moved from the existing part 7897.0150, subp. 5. It is slightly amended to require the commission's director to grant a stay upon a showing of good cause. The current language does not provide adequate criteria for issuing a stay of a ruling. It says the director *may* order a stay unless he or she determines that a stay would adversely affect the public welfare. There are few instances in which the director can conclude that a stay would "adversely affect the public welfare." The current rule seems to place the burden on the director, whereas in most racing states the licensee is required to show good cause for a stay. The proposed change better balances the due process interests of the licensee against the need to timely protect the integrity of racing and the public health and safety. See Exhibit N for examples of rules from other racing jurisdictions requiring good cause for a stay.

The commission has reviewed numerous Minnesota statutes and rules which require a showing of good cause. They typically do not specifically define "good cause."¹⁰ This term would be interpreted based on its plain meaning, in accordance with established case law, and within the parameters of Minnesota Statutes, section 14.69, which requires an agency decision to be supported by substantial evidence in the record as a whole. It will mean that a licensee must have some articulable grounds for requesting a stay beyond mere delay. In cases where the director would refuse to grant a stay for lack of good cause, the licensee can always appeal that decision to the commission or file a request for injunctive relief in district court.

Subp. 4. Procedure for appeal of decision of stewards.

This language is moved here from the current part 7897.0150, subpart 6. Minor edits would clarify that the same procedure is used for any appeal to the commission, whether an appeal of a stewards' decision or other sanction. It would extend the time for filing an appeal from three days to five days. While licensees generally do not have trouble filing their appeals within the existing 3-day deadline, the commission feels it will be helpful to give them more time. (The time is short so that appeals can be resolved promptly given the relatively short racing season.)

¹⁰ See for example, Minn. Stat. § 14.42, subd. 2a, Minn. Stat. § 480A.08, subd. 3, and Minn. Stat. § 10A.03, subd. 5.

Subp. 5. Deposit shall be required.

This is the same language renumbered and moved here from the existing part 7897.0150, subpart 7.

Subp. 6. Commission shall set date for hearing.

This language is moved here from the current part 7897.0150, subpart 8. Minor edits would give the commission five days, rather than three days, to set the date, time and place for the hearing. In addition, the commission would now have fifteen days after receipt of the appeal and deposit, rather than eight days, to hold the hearing. While a prompt hearing is essential given the short racing season, both the commission and licensees have struggled to schedule and prepare for hearings within the existing timelines. The commission must appoint a hearing panel and find a time and place that works for the commissioners as well as the licensee and their attorney. Even then, the commission almost always received requests for continuances from the licensee or their attorney so they are able to adequately prepare for the hearing.

Subp. 7. Appeal by commission.

This language is moved here from the existing part 7897.0150, subp. 9.

Subp. 8. Designation of panel.

This language is moved here from the existing part 7897.0160, subpart 1, which is being repealed.

Subp. 9. Hearing panel's decision.

This language is moved here from the existing part 7897.0160, subpart 2, which is being repealed.

7897.0160 COMPOSITION OF HEARING PANEL

Subpart 1. Designation of panel.

This rule part is being repealed because the language is being moved to the new part 7897.0155, subpart 8.

Subpart 2. Hearing panel's decision.

This rule part is being repealed because the language is being moved to the new part 7897.0155, subpart 9.

7897.0170 CONDUCT OF APPEAL HEARING.

Subp. 11. Summary disposition.

This new subpart is proposed to permit the hearing panel to issue an order without holding an evidentiary hearing if there are no genuine issues of material fact and the matter can be decided as a matter of law. The commission occasionally sees such an appeal. For example, this past year there was a

license applicant that was ineligible for a license as a matter of law under Minnesota Statutes § 240.08, subdivision 2 due to a recent criminal conviction which the applicant acknowledged; denial was required as a matter of law and there would have been no utility in holding a hearing. The standard would be the same as that for summary judgment in district court or summary disposition in contested case hearings. This will assist the commission and appellants to resolve some appeals without unnecessary investment of time and resources.

7897.0190 DISCIPLINARY ACTION BY COMMISSION

This rule part would now be titled, “CONTESTED CASE HEARINGS.” The existing rule language is awkward in that it appears to require a contested case hearing *before* the commission or stewards even issue a disciplinary sanction. Most agencies afford a contested case hearing as a means of *appealing* a disciplinary sanction -- and not all licensees elect to appeal when given the choice. The commission recently consulted with the state’s largest agency and learned that, from 2014 through 2016, less than one fourth of licensees who were issued sanctions chose to request a contested case hearing when given the opportunity. See data from the Minnesota Department of Human Services attached as Exhibit O. The commission believes more licensees may avail themselves of the right to appeal if given a simpler and more expeditious option such as a hearing before the commission, as provided in parts 7897.0155 to 7897.0180.

A contested case hearing is a relatively lengthy and costly undertaking, particularly when compared to a hearing before the commission. It makes little sense to *require* a contested case hearing before issuing a sanction when many licensees would not even elect this route if given the choice. It also makes sense to offer licensees a more efficient and expeditious option in the form of a hearing before the commission, as provided in parts 7897.0155 to 7897.0180. Proposed changes to this rule part seek to accomplish these objectives and also ensure that the available due process is commensurate with the seriousness of the sanction issued.

Subpart 1. Contested case hearings.

This subpart would now be titled, “Right to a contested case hearing.” It would still provide for a contested case hearing in the case of a relatively serious sanction but would also make it clear that a licensee may elect a hearing before the commission instead.

Item A would still provide that any license revocation is subject to a contested case hearing upon request of the licensee. Item B would provide that any suspension of a Class A, B or D license is still subject to a contested case hearing upon the request of the licensee. Note that, under Minnesota Statutes, Chapter 240, a Class A license is for a racetrack, a class B license is for an organization that operates racing, pari-mutuel wagering and card playing, and a Class D license is for a county fair that operates pari-mutuel horse racing¹¹.

Item C would provide the right to a contested case hearing if a Class C (occupational) license is suspended for more than 180 days instead of the current 90 days. This will make the length and cost of the available due process more commensurate with the severity of the sanction. A contested case proceeding generally takes at least six months from beginning to end, whereas the racing season in Minnesota is only approximately four months long. Many licensees need to leave the state after the season is over so they can race their horses in other states. A hearing before the commission is generally completed in less than 60 days from beginning to end. The right to a contested case hearing on a fine is moved to item D as explained below.

¹¹ There are currently no Class D license holders.

A new item D would now provide the right to a contested case hearing for all fines over \$5,000. This is needed for consistency with Minnesota Statutes § 240.22 (b) which was enacted in 2016 and states, “If the commission issues a fine in excess of \$5,000, the license holder has the right to request a contested case hearing under chapter 14...” Again, given the length and cost of contested case hearings, it would not be in the public interest to hold them for fines of \$5,000 or less. A stewards’ meeting, appeal to the commission, and right to appeal to the Court of Appeals is more than adequate due process.

Subp. 2. Procedure.

This subpart would now be titled, “Contested case procedure.” On the advice of the Attorney General’s office, new language is proposed to provide a specific manner and deadline for requesting a contested case hearing. The language is patterned after Minnesota Statutes, section 245A.07, subdivision 3 (b). In addition, it provides that a sanction will be stayed pending the hearing unless the license was previously summarily suspended. This is also taken from Minnesota Statutes, section 245A.07, subdivision 3 (b). Due to the length of the contested case hearing process, a licensee should have the right to a stay unless the sanctioned conduct was so severe as to warrant a summary suspension.

Subp. 3. Exceptions.

This language is moved from the current part 7897.0200, subpart 1. A slight modification is proposed so that any party may file exceptions to the administrative law judge’s report, rather than just “parties adversely affected.” It is certainly possible and that parties not adversely affected may also wish to file exceptions to the administrative law judge’s findings of fact or conclusions of law. The commission believes this may be beneficial in ensuring the final record is correct.

Subp. 4. Consideration of arguments.

This language is just moved and renumbered from the current part 7897.0200, subpart 2.

Subp. 5. Decision or order.

This language is moved and renumbered from the current part 7897.0200, subpart 3.

7897.0200 COMMISSION DECISION.

The language from this rule part is moved under the new part “CONTESTED CASE HEARINGS,” as explained above.

EXHIBITS

Exhibit A	ARCI Model Rule definitions
Exhibit B	ARCI Model Rule governing “Pick (n)” wagering
Exhibit C	ARCI Model Rule governing Jockey Room security
Exhibit D	Fact sheet on Lab Based Oral Fluid Testing Solution
Exhibit E	Discussion of ARCI Model Rule on Joint Injections
Exhibit F	Report from The Jockey Guild – Jockey Advertising Regulations
Exhibit G	ARCI Model Rules on Racetrack Security and Visitor Passes
Exhibit H	ARCI Model Rule on Eligibility to Race
Exhibit I	Whipping Rules from Indiana, Illinois and Ontario
Exhibit J	Feet in Stirrups – Indiana Rule
Exhibit K	California Horse Racing Board Rule on Disorderly Conduct and Various Rulings
Exhibit L	Various Rulings - Revoked or Suspended License
Exhibit M	ARCI Model Rule and California Rule on Benefitting Financially while Suspended
Exhibit N	Kentucky and Indiana Rules Requiring Good Cause for Stay
Exhibit O	Minnesota Department of Human Services Data on Sanctions Issued and Appealed

CONCLUSION

Based on the foregoing, the proposed rules are both reasonable and necessary to protect the integrity of racing in Minnesota.



DATE: January 19, 2018
This document is available for public
review on this date

Thomas DiPasquale
Executive Director
Minnesota Racing Commission

EXHIBIT A

GENERAL DEFINITIONS - CHAPTER 1

ARCI-001-005 Purpose

To provide definitions for commonly used terms in the rules. These definitions are used in all of the rules adopted by the Commission.

Adopted in Version 1.4 ARCI 8/27/02 NAPRA 10/2/02

ARCI-001-010 Terms

- (1) **Act** is the enabling legislation permitting pari-mutuel racing and wagering in this jurisdiction
- (2) **Added Money** is the amount exclusive of trophy added into a stakes by the association, or by sponsors, state-bred programs or other funds added to those monies gathered by nomination, entry, sustaining and other fees coming from the owners of racing animals.
- (3) **Administer or Administration** is the introduction of a substance into the body of a horse or greyhound.
- (4) **Appeal** is a request for the Commission or its designee to investigate, consider and review any decisions or rulings of stewards/judges of a meeting.
- (5) **Associated person** is the spouse of an inactive person, or a companion, family member, employer, employee, agent, partnership, partner, corporation, or other entity whose relationship, whether financial or otherwise, with an inactive person would give the appearance that such other person or entity would care for or train a racing animal or perform veterinarian service on a racing animal for the benefit, credit, reputation, or satisfaction of the inactive person.
- (6) **Association** is a person or business entity holding a license from the commission to conduct racing and/or pari-mutuel wagering.
- (7) **Authorized Agent** is a person licensed by the Commission and appointed by a written instrument, signed and acknowledged before a notary public by the owner in whose behalf the agent will act.
- (8) **Beneficial Interest** is profit, benefit or advantage resulting from a contract or the ownership of an estate as distinct from the legal ownership or control. When considered as designation of character of an estate, is such an interest as a devisee, legatee or donee takes solely for his own use or benefit and not as holder of title for use and benefit of another.
- (9) **Breakage** is the net pool minus payout.
- (10) **Business Day** is a day other than Saturday or Sunday or legal holiday.
- (11) **Carryover** is non-distributed pool monies which are retained and added to a corresponding pool in accordance with these rules.
- (12) **Cheek Piece** is two stripes of sheepskin or any other similar material that is attached to the cheek pieces of the bridle.
- (13) **Commission** is the regulatory agency with the authority to regulate racing and/or pari-mutuel wagering.

EXHIBIT B

the net Pick (n) pool shall be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in each of the Pick (n) contests. If there are no winning wagers, the pool is refunded.

- (g) Method 7, Pick (n) with Carryover and “Unique Winning Ticket” Provision: The net Pick (n) pool and carryover, if any, shall be distributed to the holder of a unique winning ticket that selected the first-place finisher in each of the Pick (n) contests, based upon the official order of finish. If there is no unique ticket selecting the first-place finisher in each of the Pick (n) contests, or if there are no wagers selecting the first-place finisher of all Pick (n) contests, the minor share of the net Pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick (n) contests, and the major share shall be added to the carryover. Associations may suspend previously approved unique winning ticket wagering with the prior approval of the Commission. Any carryover shall be held until the suspended unique winning ticket wagering is reinstated. Where there is no correct selection of the first-place finisher in at least one of the Pick (n) contests, based upon the official order of finish, the day’s net pool shall be refunded and the previous carryover pool amount, if any, shall be carried over to the next scheduled corresponding pool. In obtaining authorization for operating the Pick (n) pool under this subsection, associations must clearly identify which definition under paragraph 16(b) will be relied upon for determining the existence of a unique winning ticket.
- (h) Method 8, Pick (n) with the Pool split into three shares, one share having a Carryover: The share percentages are determined by the pool host and approved by the Commission. The first share of the net Pick (n) pool and the carryover, if any, shall be distributed to those who selected the first-place finisher in each of the Pick (n) contests, based upon the official order of finish. The second share of the net Pick (n) pool shall be distributed to those who selected (n-1) of the Pick (n) contests, based upon the official order of finish and a third share of the Pick (n) pool shall be distributed to those who selected (n-2) of the Pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher of all Pick (n) contests, the first share shall be added to the carryover. If there are no wagers selecting (n-1) of the Pick (n) contests, this second share shall be added to the carryover. If there are no wagers selecting (n-2) of the Pick (n) contests, this third share shall be added to the carryover. Where there is no correct selection of the first-place finisher in at least one of the Pick (n) contests, based upon the official order of finish, the day’s net pool shall be refunded and the previous carryover pool amount, if any, shall be carried over to the next scheduled corresponding pool.
- (i) Method 9, Pick (n) with the pool split into three shares, with Carryovers, and a Unique Winning Ticket Provision: The share percentages are determined by the pool host and approved by the Commission. The first share of the net Pick (n) pool and the first share carryover, if any, shall be distributed to those who selected the first-place finisher in each of the Pick (n) contests, based upon the official order of finish. The second share of the net Pick (n) pool shall be distributed to those who selected the first-place finisher in the second greatest number of Pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher of all Pick (n) contests, the second share of the net Pick (n) pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick (n) contests, and the first share shall be added to the first share carryover. The third share and the

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- (15) The association may suspend previously-approved Pick (n) wagering with the prior approval of the Commission. Any carryover shall be held until the suspended Pick (n) wagering is reinstated. An association may request approval of a Pick (n) wager or separate wagering pool for specific performances.
- (16) As it relates to any distribution method under section 2 which contains a unique winning ticket provision:
- a. A written request for permission to distribute the Pick (n) unique winning ticket carryover on a specific performance may be submitted to the Commission. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution. Should the Pick (n) unique winning ticket net pool and any applicable carryover be designated for distribution on a specified date and performance in which there is no unique winning ticket, the entire pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick (n) contests.
 - b. Associations must clearly identify which selection under clauses (i) and (ii) below will be relied upon for determining the existence of a unique winning ticket:
 - i. there is one and only one winning ticket that correctly selected the first-place finisher in each of the Pick (n) contests, based upon the official order of finish, to be verified by the unique serial number assigned by the tote company that issued the winning ticket; or
 - ii. the total amount wagered on one and only one winning combination selecting the first-place finisher in each of the Pick (n) contests, based up on the official order of finish, is equal to the minimum allowable wager.

EXHIBIT C

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- (1) when required, ensure the safekeeping of registration certificates and racing permits for horses stabled and/or racing on association grounds;
- (2) inspect documents of ownership, eligibility, registration or breeding necessary to ensure the proper identification of each horse scheduled to compete at a race meeting;
- (3) 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 Commission for comparison with its registration certificate to verify the horse's identity; and
- (4) supervise the tattooing, microchip, freeze branding or other method of identification approved by the appropriate breed registry and the Commission for identification of any horse located on association grounds.

B. Report Violations

The Horse Identifier shall report to the stewards any horse not properly identified or whose registration certificate is not in conformity with these rules.

Adopted in Version 1.4 ARCI 8/27/02 NAPRA 10/2/02

Version 4.4 to 4.5 ARCI 4/23/09 Amended language added microchip and freeze brand

ARCI-006-040 Clerk Of Scales

A. General Authority

The clerk of scales shall:

- (1) verify the presence of all jockeys in the jockeys' room at the appointed time;
- (2) verify that all such jockeys have a current jockey's license issued by the Commission;
- (3) verify the correct weight of each jockey at the time of weighing out and weighing in and report any discrepancies to the stewards immediately;
- (4) oversee the security of the jockeys' room including the conduct of the jockeys and their attendants;
- (5) promptly report to the stewards any infraction of the rules with respect to weight, weighing, riding equipment or conduct;
- (6) record all required data on the scale sheet and submit that data to the horsemen's bookkeeper at the end of each race day;
- (7) maintain the record of applicable winning races on all apprentice certificates at the meeting;
- (8) release apprentice jockey certificates, upon the jockey's departure or upon the conclusion of the race meet; and
- (9) assume the duties of the jockey room custodian in the absence of such employee.

Adopted in Version 1.4 ARCI 8/27/02 NAPRA 10/2/02

ARCI -006-045 Jockey Room Custodian

The jockey room custodian shall:

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- (1) supervise the conduct of the jockeys and their attendants while they are in the jockey room;
- (2) keep the jockey room clean and safe for all jockeys;
- (3) ensure all jockeys are in the correct colors before leaving the jockey room to prepare for mounting their horses;
- (4) keep a daily film list as dictated by the stewards and have it displayed in plain view for all jockeys;
- (5) keep a daily program displayed in plain view for the jockeys so they may have ready access to mounts that may become available;
- (6) keep unauthorized persons out of the jockey room; and
- (7) report to the stewards any unusual occurrences in the jockey room.

Adopted in Version 1.4 ARCI 8/27/02 NAPRA 10/2/02

ARCI-006-050 Starter

A. General Authority

The starter shall:

- (1) have complete jurisdiction over the starting gate, the starting of horses and the authority to give orders not in conflict with the rules as may be required to ensure all participants an equal opportunity to a fair start;
- (2) appoint and supervise assistant starters who have demonstrated they are adequately trained to safely handle horses in the starting gate. In emergency situations, the starter may appoint qualified individuals to act as substitute assistant starters;
- (3) ensure that at least one assistant starter is available for each horse in a race;
- (4) assign the starting gate stall positions to assistant starters and notify the assistant starters of their respective stall positions not more than 10 minutes before post time for the race;
- (5) assess the ability of each person applying for a jockey's license in breaking from the starting gate and working a horse in the company of other horses, and shall make said assessment known to the stewards; and
- (6) load horses into the gate in any order deemed necessary to ensure a safe and fair start.
- (7) Immediately report to the stewards any false starts, impeded starts or unfair starts.

B. Assistant Starters

With respect to an official race, the assistant starters shall not:

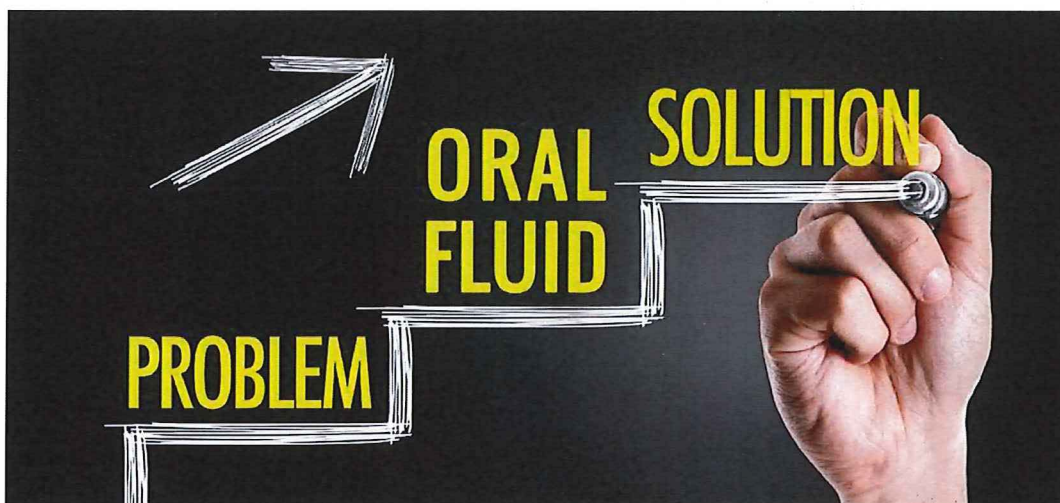
- (1) handle or take charge of any horse in the starting gate without the expressed permission of the starter;
- (2) impede the start of a race;
- (3) apply a whip or other device, with the exception of steward-approved twitches, to assist in loading a horse into the starting gate;
- (4) slap, boot or otherwise dispatch a horse from the starting gate;
- (5) strike or use abusive language to a jockey; or

EXHIBIT D



The Lab-Based Oral Fluid Testing Solution

May 22, 2017 | Articles



A Common Problem

People who deal with drug testing are full of stories about people trying to cheat their drug test. Clinics and drug treatment centers are no stranger to these sometimes absurd antics. Defending against the various ways people cheat to pass a drug test is an

ongoing battle. [Clinics](#), [pain management](#) and [treatment centers](#) that conduct drug testing must be aware of the many ways samples can be tampered with. With a quick internet search, people can access thousands of websites that focus on the many ways drug users can pass their upcoming drug test. These resources offer everything from free targeted advice on the best ways to beat certain types of tests, sell products, additives, and even synthetic urine.

Many drug abusers have become highly competent and continue to come up with new ways to beat a drug test, especially when the stakes are high. Knowing what the cheaters know and evolving your programs testing protocol is critical.

Common Cheating Methods

Dilution

The dilution method requires the user to consume large amounts of liquid (water, juice, etc.) leading up to the drug test, with the goal to dilute the drug concentration. Although a diluted urine sample does not automatically mean the individual is a drug user, the specimen will usually be reported by a laboratory as an unfit sample for testing.



Substitution

The substitution method is self-explanatory in that it is just the substitution of one person's urine with that of someone (or something) else's. This method can pose complications for the cheater, however it may cause the urine to be visually dirty or the container used to store the substituted urine might break or leak. To avoid these complications, products and advice is readily available online.

Concealed Container

This method is carried out by the person hiding a container of concealed urine to dump out into a sample cup. This method requires the donor to keep the sample warm within an acceptable temperature range, while also pouring the urine out quietly without the collector knowing. People looking to pass their test may use condoms or other more advanced container styles with flexible tubes to hide the container and dispense the urine even under supervision. Even more extreme scenarios have been taken by cheaters emptying their bladders and having substituted urine injected directly into their bladders via a needle.

Adulteration/Additive

With the adulteration or additive method, the user adds something to the urine, typically after they have personally voided their own specimen. Common additives include bleach, vinegar, eye drops, dish soap, and even drain cleaners. There are also a variety of products that claim to interfere with the testing process/results.



Shocking Statistics

- There are countless websites (approximately 27+ million) on the Internet that offer products that claim to help people successfully cheat on a drug test. There are just as many websites that offer advice about how to mask the presence of drugs in a person's urine.
- If you're in the business of administering drug tests, these websites can be an invaluable resource. You can learn a lot just by reading what they have to say about adulterants, dilution methods and substitution techniques.
- In 2013, an estimated 24.6 million Americans above the age of 12 were current (past month) illicit drug users.
- Why so much drug testing? Because drug testing ensures medication adherence, program compliance, prevents dangerous drug interactions and ultimately, provide better care to the patient.





Is Oral Fluid Testing The Answer?

Although people continue to attempt new and creative ways to beat a test, there are many things clinics and treatment providers can do to minimize, if not eliminate, the cheaters' chances of success.

With advancements in science, more and more clinical based drug testing programs are moving to [oral fluid testing](#) to overcome the problems associated with people cheating their test.

Oral fluid drug testing makes for a valuable addition to drug testing methods. [Oral fluid](#) testing is 100% observed and offers an ideal solution that is less invasive than other methods of testing. Direct observation during collection allows testing to be administered anytime and anywhere, drastically reducing the opportunity for tampering and use of adulteration products. Because of these benefits, oral fluid testing is considered a tamper-resistant testing method and almost impossible to cheat.



[Download](#) our Lab-Based Oral Fluid Testing Solutions (PDF) to learn more.

Lab-Based Oral Fluid Drug Testing

Our CAP Forensic accredited [laboratory](#) offers fast, accurate and customized solutions for clinical practices including; [pain management](#), [mental health](#), [chemical dependency/treatment facilities](#), [primary care](#) and [OB/GYN](#) among others. We combine state of the art, highly sensitive LC-MS/MS instrumentation with reliable methodology to ensure fast and accurate results.





Premier Labs Oral Fluid Testing

- Industry leading innovation in oral fluid testing
- Cutting-edge laboratory solutions
- Screenings and Confirmations
- Preventing adulteration, substitution or dilution
- Safe and simple collection
- Minimal personal invasiveness

- Customized lab reports
- Industry leading, extensive oral fluid testing panel

Interested In Learning More About Oral Fluid Testing?

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Premier Biotech, Inc.

Product: 888-686-9909

723 Kasota Avenue SE
Minneapolis, MN 55414



Premier Biotech Labs

Laboratory: 855-718-6917

EXHIBIT E

RCI Model Rules Committee
Petition for new rule or change to existing rule

Contact Information:

Dr. Dionne Benson, Racing Medication and Testing Consortium,
821 Corporate Drive, Lexington, KY 40515, 859-224-2844

A. Brief Description of the Issue:

Horses that are claimed often go without any health history available to the new owner/trainer. The concern with corticosteroids and other joint treatments is that repeated injections within days or even weeks to months can potentially have detrimental effects on the health of a horse's joints. Additionally, repeated injections may forestall the use of diagnostic measures that may diagnose an underlying condition causing lameness or inflammation.

B. Discussion of the Issue and Problem

Provide background on the issue to build context. Address the following:

- *What specific problems or concerns are involved in this issue?* The primary concerns include providing information regarding corticosteroid and all other joint injections to the horse's new owner/trainer. This reporting can forestall repeated joint injections and may alert horsemen to long-term corticosteroid issues or joint issues that might go undetected otherwise.
- *Who does the issue affect?* Horses, horsemen, veterinarians.
- *What existing model rules relate to this issue?* No existing model rule
- *Provide relevant quantitative or statistical information if possible.*

N/A

C. Possible Solutions and Impact

Provide possible recommendations to solve the problem. Include details on each proposed solution such as

- *What solution does this proposal provide?* This requires the former owner/trainer to provide information to the new owner/trainer which will provide information about recent joint treatments and corticosteroid injections.
- *How will the solution fix the problem?* By informing the new trainer/owner and potentially the new veterinarian for the horse, there can be continuity of care for the horse as well as providing information to prevent repeated injections in the same joint space.
- *How will the change affect any entities or stakeholders?* It will require horsemen or their designee to provide information to the claimant of a horse.
- *How will you or your organization be affected by the proposed change?* It will not. This is for the benefit of the horse.
- *What are the benefits of the proposed change?* Ideally, there will be fewer repeat joint injections in rapid succession. Additionally, it may encourage owners and trainers to perform diagnostic tests instead of re-injecting a joint.
- *What are the possible drawbacks of the proposed change?* Horsemen or their representatives will have to take the time to provide the records and review the records.

- *Identify possible fiscal impact of the recommended change.*
Unknown.

D. Industry Support

Please identify any affected stakeholder groups that expressed support or opposition.

The AAEP Racing Committee has reviewed and approved the language

The RMTC Board reviewed and approved the language with only the California Thoroughbred Trainer's representative abstaining.

E. Proposed Model Rule language

Attach the model rule language you are proposing.

ARCI-008-020 Trainers

(19) Corticosteroid and Intra-Articular Injection Reporting Requirements

Trainers or their designee shall maintain complete records of all corticosteroid and intra-articular injections for all horses in his or her control. Complete corticosteroid and intra-articular injection records include:

- a) The date of the injection;
- b) The name of the veterinarian performing the injection;
- c) The articular space(s) or structure(s) injected;
- d) The medications or biologicals used to inject each articular space; and
- e) The dose in milligrams of each corticosteroid used.

This information shall be maintained for a minimum of 30 days to facilitate compliance with this regulation.

If a horse is successfully claimed by a new owner, the trainer of record at time of that race must provide that horse's complete corticosteroid and intra-articular injection record(s) for the last 30 days (30-day Record):

- a) 30-day Records may be provided in paper or electronic form but must be provided in a format approved by the Regulatory Authority.
- b) 30-day Records must be provided to the new trainer within 48 hours of the transfer of the horse. The trainer or his/her designee shall notify the regulatory veterinarian when the records have been provided.
- c) Submission of 30-day Records may be delegated to the treating veterinarian, who shall provide the report to the new trainer within 48 hours of the transfer of the horse.
- d) Failure of the trainer to provide the 30-day Record shall result in disciplinary action.

F. Similar State Rules

Do any racing jurisdictions currently have a version of this rule in effect?

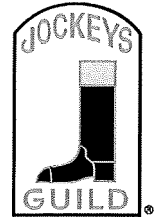
Maryland, Iowa, and New York have a version of this in their rules. Gulfstream Park has a house rule for this purpose. These rules were consulted in drafting this version. Additionally, California and West Virginia are considering similar rules.

G. Review and Identification of affected Model Rules

Review the RCI Model Rules and identify any other Model Rules this change would affect and submit proposed amendments to those rules to comply with changes that would be made by this proposal.

EXHIBIT F

To: Thomas DiPasquale
From: Mindy Coleman-Jockeys' Guild
Date: January 12, 2018
Re: Jockey Advertising Regulations in Various Jurisdictions



Kentucky
810 KAR 1:009. Jockeys and apprentices.

Section 15. Advertising. (1) 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 before or after a race, unless:

- (a)1. The material advertises or promotes the Jockey's Guild in the form of the picture of a jockey's boot or the picture of a wheelchair, with no additional picture or logo;
 2. The material advertises or promotes the Permanently Disabled Jockey's Fund in the form of the pictures of its logo, with no additional picture or logo; or
 3. The picture or logo has previously been approved by the current owner, association, and the stewards under the process set forth in this administrative regulation, and this approval is reflected in the commission's official records;
 - (b) The material complies with the size restrictions of subsection (2)(b) of this section;
 - (c) The material meets the advertising standards listed in subsection (2) of this section;
 - (d) Written approval by the following is submitted to the commission:
 1. The managing owner of the horse, or authorized agent of the managing owner who acts with actual authority and has been specifically authorized in writing to sign the written approval on behalf of the managing owner. Written authorization shall be evidenced by completion and return to the commission of the "Authorized Agent License Application" form. If the owner is a business entity, in lieu of filing the "Authorized Agent License Application" form, the owner may file duly adopted resolutions of the business entity authorizing the agent to act on its behalf and remit the twenty-five (25) dollar license application fee;
 2. The jockey riding the horse or the authorized agent of the jockey who acts with actual authority and has been specifically authorized in writing to sign the written approval on behalf of the jockey. Written authorization shall be evidenced by completion and return to the commission of the "Authorized Agent License Application" form;
 3. The licensed racing association, which shall grant approval if it reasonably determines the material meets the standards in subsection (2)(a) of this section; and
 4. The stewards, who shall grant approval if they reasonably determine the material meets the standards in subsections (2)(b) and (3) of this section; and
 - (e) Written approval required pursuant to subsection (1)(d) of this section is evidenced by completion and return to the commission of the "Request to Wear Advertising and Promotional Materials" form. The form shall be completed and submitted to the stewards not later than 5 p.m. two (2) days prior to the day of the race in which the advertising and promotional materials will be worn. Other forms of approval shall not be accepted by the commission.
- (2) Advertising or promotional material displayed on jockey clothing shall:
- (a) Not compete with, conflict with, or infringe upon sponsorship agreements applicable to the racing association race or to the race meet in progress; and
 - (b) Comply with the following size restrictions:

1. 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;
 2. A maximum of twenty-four (24) square inches on boots and leggings on the outside of each nearest the top of the boot; and
 3. A maximum of six (6) square inches on the front center of the neck area (on a turtleneck or other undergarment).
- (3) 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.
- (4) (a) The party presenting the advertising or promotional opportunity to the owner and jockey (including without limitation, the owner and jockey) shall disclose in writing all material terms, including financial, regarding the advertising or promotional opportunity to the owner and the jockey;
- (b) The division of proceeds from any advertising or promotional material placed in accordance with this administrative regulation shall be subject to agreement between the owner and the jockey;
- (c) The agreement between the owner and jockey shall be made in writing on the "Owner/Jockey Advertising and Promotional Materials Agreement" not later than 5 p.m. two (2) days prior to the day of the race in which the advertising and promotional materials will be worn;
- (d) Other forms of agreement or contract shall not be used; and
- (e) Any party who fails to comply with this or any other provision provided in this administrative regulation may be subject to penalties by the commission in accordance with KRS Chapter 230 and 810 KAR Chapter 1.
- (5) 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 section are met.
- (6) The sponsor of a licensed racing association race or race meeting may display advertising or promotional material on an association saddlecloth if it does not interfere with the clear visibility of the number of the horse.
- (7) Advertising content other than that approved in this administrative regulation shall not be permitted.
- (8) This administrative regulation shall not infringe upon or limit the common law rights of a racing association to eject or exclude persons, licensed or unlicensed, from association grounds, or to apply the association's internal rules regarding other forms of advertising not addressed in this or any other applicable statute or administrative regulation, if the internal rules have been previously filed with and approved by the commission or its authorized representative.

(SEE ATTACHED FORMS)

NOTE:

In *Albarado v. Kentucky Racing Commission*, 496 F.Supp.2d 795, jockeys challenged regulations which prohibited them from wearing advertising and promotional logos on their racing attire. One group of jockeys sought to display the Jockeys' Guild patch on their clothing; another group sought to display advertising logos on their clothing. On July 20, 2004, the Kentucky Racing Authority was permanently enjoined by United States District Judge Heyburn from enforcing 810 KAR 1:009 Section 14(3) based upon the opinion and order that had been entered on April 29, 2004 in *Albarado v. KRC*, USDC WDKY Civil No.3:04CV-231-H. The Judge found that Kentucky jockeys have a clear

constitutional right to wear on their apparel appropriately sized Jockeys' Guild or Permanently Disabled Jockey's Fund logos and the current rule so reflects that decision at Sub-Section (1)(a)(1)(a) and (b). However, Judge Heyburn's decision also reflected the constitutional protections accorded to jockeys engaged in commercial speech by wearing advertising or promotional material on their racing apparel. (See attached Memorandum and Order). In response to the order, the Kentucky Racing Authority (now known as Kentucky Horse Racing Commission) adopted a regulation regarding jockey advertising, which was amended in 2010 to the current regulation.

NOTE: Language similar to what has been submitted to Minnesota was also submitted to the KHRC in the summer of 2017, and is still being discussed with the interested parties and before the staff of the Commission.

New York

9 CRR-NY 4041.6

Wearing of advertising or promotional material.

(a) A jockey may not wear any clothing other than the usual helmet, silks, pants, boots and gloves nor display on such clothing any material other than

(1) a logo of the Jockeys' Guild that does not exceed 10 square inches;

(2) a logo of the Permanently Disabled Jockeys Fund that does not exceed 10 square inches;

and

(3) authorized advertising or promotional material worn with permission of the stewards.

(b) Advertising or promotional material may be worn by a jockey provided such jockey has filed with the stewards and the race track in a form furnished by the commission at least 24 hours before the applicable race, a description of the advertising or promotional material to be worn with the name of the brands and sponsors and referring to a written authorization by the managing owner of the horse to be ridden which authorization is also filed.

(c) Notwithstanding the foregoing when a corporation, company or any other entity sponsors a race or raceday at the track, the track may prohibit such advertising or promotional material from being worn that represents a competitor of such sponsoring corporation, company or other entity. In this regard the track shall notify the stewards of such prohibition at least two hours before the first race of the day, and the jockey upon arrival in the jockeys' enclosure.

(d) A jockey may display the jockey's name on the pants and the rear of the helmet, only if the name:

(1) is the jockey's legal name;

(2) appears on any combination of the outside of the right thigh, the outside of the left thigh, the rear of the pants between the waistline and the base of the spine or the rear of the helmet;

(3) does not exceed 32 square inches on the outside of each thigh, 10 square inches on the rear of the pants and six square inches on the rear of the helmet; and

(4) appears in black lettering.

updated (8/17)

NOTE: They had made an amendment allowing for the jockeys to wear their names on their pants in 2017. Shortly thereafter, language similar to what was submitted in Minnesota was also submitted to the New York Gaming Board for their consideration.

California

1691 Colors, Numbers, and Advertising

(Not Strictly Enforced. Jockeys in California have Annual Sponsorship agreements and are not required to submit paperwork each time they ride.)

(a) A jockey shall be properly attired for riding in a race, wearing the colors of the owner of the horse he or she is riding, and exhibiting a number on the saddlecloth that corresponds to the number of the horse on the official program. (b) Advertising, including logos, labels, or product endorsements shall be permitted on jockey attire, owner silks, and track saddlecloths from the point of weighing out for a race to weighing in after its conclusion. (c) A copy of the advertisement signage must be submitted for review, for compliance with the provisions of this rule, to the stewards at the track where the advertisement will be worn before the horse is entered to race. (d) Advertising on jockey clothing is limited to: (1) A maximum of 32 square inches on each thigh of the pants on the outer sides between the hip and knee and 10 square inches on the rear at the base of the spine. (2) A maximum of 24 square inches on boots and leggings on the outside of each nearest the top of the boot. (3) A maximum of 6 square inches on the front center in the neck area. (e) Advertising on owner silks is limited to: (1) A maximum of 32 square inches on the chest area. (2) A maximum of 1.5 inches by 4 inches on each collar. (f) Advertising on track saddlecloths is not limited to size or placement. NOTE: Authority cited: Sections 19420 and 19562, Business and Professions Code. Reference: Sections 19420 and 19562, Business and Professions Code. HISTORY: 1. New subsection (b) filed 7-9-92; effective 8-8-92. 2. Amendment filed 2-13-02; effective 2-13-02.

NOTE: California does not enforce the regulation as written. In practicum, it is more like the language that was adopted in New Mexico and Louisiana and submitted for consideration to many of the other jurisdictions, including Minnesota.

Indiana

71 IAC 7.5-6-3.5 Jockey apparel advertising

Sec. 3.5. (a) A jockey shall not wear advertising or promotional material of any kind on clothing within one (1) hour of or

during a race, unless the following criteria are met:

(1) Comply with the following size restrictions:

(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.

(B) A maximum of twenty-four (24) square inches on boots and leggings on the outside of each nearest the top of the boot.

(C) A maximum of six (6) square inches on the front center of the neck area (on a turtleneck or other undergarment).

(2) The jockey is in compliance with the track rules regarding apparel advertising. Such track rules are subject to the approval of the commission.

(b) The stewards may disallow any advertising that is not in compliance with track rules or they deem to be inappropriate or in poor taste.

(c) Jockeys are permitted to place their name on their apparel in accordance with subsection (a)(1)(C) and wear The Jockey Guild emblem on their riding pants.

NOTE: Jockeys are allowed to wear advertising so long as they receive approval from the Stewards to assure that it is not in poor taste and it is not in conflict with the track's sponsors. In the event that jockeys do not have sponsors, management was asking the jockeys to wear pants with the Indiana Grand Logo.

Louisiana

Chapter 7. Jockeys and Apprentice Jockeys

§742. Jockey Apparel Advertising

A. A jockey shall not wear advertising or promotional material of any kind on clothing during a race, unless the following criteria are met:

1. a maximum of 32 square inches on each thigh of the pants on the outer side between the hip and knee and 10 square inches on the rear of the pant at the waistline at the base of the spine;
2. a maximum of 24 square inches on boots and leggings on the outside of each nearest the top of the boot;
3. a maximum of six square inches on the front center of the neck area (on a turtleneck or other undergarment);
4. such advertising or promotional material does not compete with, conflict with, or infringe upon any current sponsorship agreement to the racing association race or race meet.

B. The stewards, at their discretion, may disallow any advertising that is not in compliance with this Rule, any other rules of racing, or any advertising they deem to be inappropriate, indecent, in poor taste, or controversial

New Mexico

16.47.1.12 JOCKEYS

E. COLORS, NUMBERS, ADVERTISING:

(1) A jockey shall be properly attired for riding in a race, wearing the colors of the owner of the horse he or she is riding, and exhibiting a number on the saddlecloth that corresponds to the number of the horse on the program.

(2) Advertising or promotional material may be worn by a jockey upon approval from the board of stewards and racetrack management. Approval is discretionary and may be denied for just cause.

(3) Jockeys shall submit a commission approved form, including a description of the advertisement or promotional material to be worn with the name of the brands and sponsors.

(4) The form must be submitted to the board of stewards at the time of entry before the applicable race.

(5) Advertising, including logos, labels or product endorsements shall be permitted on jockey attire from the point of weighing out for a race to weighing in after its conclusion.

(6) Advertisement on jockey clothing is limited to.

(a) A maximum of 32 square inches on each thigh of the pants on the outer sides between the hip and knee and 10 square inches on the rear at the base of the spine.

(b) A maximum of 24 square inches on boots and leggings on the outside of each, nearest the top of the boot.

(c) A maximum of six square inches on the front center in the neck area.

(7) 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.

(8) Advertising or promotional material displayed on jockey clothing shall not compete with, conflict with, or infringe upon sponsorship agreements applicable to the racing association race or to the race meet in progress.

(9) A jockey may wear the following advertising or promotional materials within the parameters outlined in the size restrictions above without obtaining prior approval.

(a) Materials advertising or promotion the *jockeys' guild [sic]* in the form of the picture of a jockey's boot or the picture of a wheelchair, with no additional picture of logo.

(b) The *permanently disabled jockey's fund* (PDJF) in the form of the pictures of its logo, with no additional picture or log.

Texas

Article 3. Powers and Duties of Commission

Sec. 3.021. Regulation by Commission.

(d) The commission may not adopt rules restricting competitive bidding or advertising by a licensee except to prohibit false, misleading, or deceptive practices. In its rules to prohibit false, misleading, or deceptive practices, the commission may not include a rule that:

- (1) restricts the use of any medium for advertising;
- (2) restricts the use of a licensee's personal appearance or voice in an advertisement;
- (3) relates to the size or duration of an advertisement by the licensee; or
- (4) restricts the licensee's advertisement under a trade name.

HOUSE RULES:

Arkansas

Jockeys are allowed to wear the Jockeys' Guild logo, the PDJF logo, and their name on his or her pants. A jockey is allowed to wear advertising if an owner signs an affidavit authorizing the jockey to wear the advertising while riding his or her horse, and is approved by the racetrack as well as the Commission

Oklahoma

Jockeys are allowed to wear advertising so long as they receive approval from the Stewards to assure that it is not in poor taste and it is not in conflict with the track's sponsors.

New Jersey

Monmouth Park has been allowing for jockeys to wear sponsors on their pants. In the spring of 2017, the Guild reached an agreement with BetFair, a subsidiary of TVG, for the jockeys to wear promotional materials during racing.

The Maryland Jockey Club

The Maryland Jockey Club has adopted the Kentucky Regulation as its house rule and uses similar forms to be completed. This is typically an issue during the Preakness Stakes.

Breeders Cup

The state regulation in which the location of the particular year's Breeder Cup Events is the applicable regulation. For example, in 2015 it was Kentucky's Jockey Advertising Regulation and in 2016, it was California's Jockey Advertising Regulation.

Additional jurisdictions where the Guild has submitted similar language regarding jockey advertising in the past year:

Iowa
Illinois

EXHIBIT G

Visitor's Pass

The Association of Racing Commissioners International Model Rules of Racing

- (3) During workouts, **both** lights and sirens shall be used **simultaneously**. When a warning system is activated, those working, galloping, or ponying horses shall slow down and no one on horseback shall enter the affected track.
- (4) During a race, **lights** and **sirens** shall be used **independently**. Only the **lights** shall be used to warn jockeys or a loose or injured horse, or other situation(s) where the race **shall continue**, but caution must be exercised. If the race is aborted, **sirens** shall also be used and the jockeys shall immediately slow their horses.

Adopted in Version 1.4 ARCI 8/27/02 NAPRA 10/2/02

Version 3.2 to 3.3 ARCI 12/7/05: Added new rule language

Version 4.0 to 4.1 ARCI 4/26/07: Added new rule language

Version 4.3 to 4.4 ARCI Board 12/10/08: Added emergency response procedure language

Version 6.0 to 6.1 ARCI Board 12/7/15 Added ARCI-007-020 (M) Emergency Track Warning System

Version 6.3 to 7.0 ARCI Board of Directors 12/09/2016, amended ARCI 0007-020-E "Rail"

ARCI-007-025 Operations

A. **Security**

- (1) An association conducting a race meeting shall maintain security controls over its grounds. Security controls are subject to the approval of the Commission.
- (2) An association may establish a system or method of issuing credentials or passes to restrict access to its restricted areas or to ensure that all participants at its race meeting are licensed as required by these rules.
- (3) An association shall prevent access to and shall remove or cause to be removed from its restricted areas any person who is unlicensed, or who has not been issued a visitor's pass or other identifying credential, or whose presence in such restricted area is unauthorized.
- (4) Unless otherwise authorized by the Commission, an association shall provide **continuous security in the stable area during all times that horses are stabled on the grounds**. An association shall require any person entering the stable area to display valid credentials issued by the Commission or a visitor's pass issued by the association (See Chap. 8, Rule ARCI-008-010 Section X). A written record of all individuals admitted to the stable area between the hours of 12:00 midnight and 5:00 a.m. shall be maintained. At a minimum this record shall contain the name of the person admitted, the person's license number and the time admitted. An association shall provide security fencing around the stable area in a manner that is approved by the Commission.
- (5) On request by the Commission, an association shall provide a list of the security personnel, including the name, qualifications, training, duties duty station and area supervised by each employee.
- (6) Each day, the chief of security for an association shall deliver a written report to the stewards regarding occurrences on association grounds on the previous day. Not later than 24 hours after an incident occurs requiring the attention of security personnel, the chief of security shall deliver to the stewards a written report describing the incident. The report must include the name of each individual involved in the incident,

previous day. Not later than ___ after an incident occurs requiring the attention of security personnel, the chief of security shall deliver to the Commission designee a written report describing the incident. The report must contain the name of each individual involved in the incident, the circumstances of the incident and any recommended charges against each individual involved. The association shall maintain an incident report for at least ___ after the date of the incident for inspection by the Commission and shall provide any additional information relating to security requested by the Commission.

B. Visitor's Pass

- (1) An association may issue a visitor's pass to a person to enter restricted areas in accordance with this section. The security personnel shall maintain a log showing the date and time of issuance, the name of the visitor, pass number and the licensee requesting the pass and that person's Commission license number. A visitor to whom a visitor's pass has been issued shall display the pass on his/her clothing at all times while in restricted areas.
- (2) An association may issue a visitor's pass only to a guest of:
 - (a) an association officer or official;
 - (b) a Commission employee;
 - (c) a trainer, assistant trainer or kennel operator licensed by the Commission; or
 - (d) the owner of a greyhound racing at the meeting.
- (3) A visitor's pass must contain:
 - (a) the visitor's name;
 - (b) the sequential pass number;
 - (c) the date the pass was issued; and
 - (d) the expiration date.
- (4) A visitor's pass issued under this section is valid for the period the pass is issued. A visitor's pass does not entitle the person to whom the pass is issued to participate in racing in any way other than as a patron, except for an individual who delivers or accompanies a greyhound to the association grounds at a time when the Commission licensing office is closed.
- (5) The licensee requesting the visitor's pass is responsible for the proper conduct of the visitor and shall ensure compliance by the visitor with all Commission rules.

C. Fire Protection

- (1) 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. An evacuation plan will be posted by the association and a copy of which will be provided to the commission.
- (2) Not later than ___ before the first day of a race meeting, an association shall deliver to the Commission a copy of the state or local fire marshal's certification regarding the association's compliance with fire safety regulations or the fire marshal's plans of corrections. The certification or plan must be based on an inspection of the

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- (2) The stewards may require visible display of a license in a restricted area.
- (3) A license may only be used by the person to whom it is issued.

Y. Visitor's Pass

Track security may authorize unlicensed persons temporary access to restricted areas. Such persons shall be identified and their purpose and credentials verified and approved in writing by track security. A copy of the written approval shall be filed with the Commission or its designee within 48 hours. Such authorization or credential may only be used by the person to whom it is issued.

Z. Safety Equipment

(1) Helmets

Any person mounted on a horse or stable pony on association grounds must wear a properly secured safety helmet at all times. Additionally, all members of the starting gate crew must adhere to this regulation at all times while performing their duties or handling a horse. For the purpose of this regulation, a member of the starting crew means any person licensed as an assistant starter or any person who handles a horse in the starting gate. The helmet must comply with one of the following minimum safety standards or later revisions:

- a) American Society for Testing and Materials (ASTM 1163);
- b) European Standards (EN-1384 or PAS-015 or VG1);
- c) Australian/New Zealand Standards (AS/NZ 3838; or
- d) ARB HS 2012); or Snell Equestrian Standard 2001.

(2) Vests

Any person mounted on a horse or stable pony on the association grounds must wear a properly-secured safety vest at all times. Additionally, all members of the starting gate crew must also adhere to this regulation at all times while performing their duties or handling a horse. For the purpose of this regulation, a member of the starting gate crew means any person licensed as an assistant starter or any person who handles a horse at the starting gate. The safety vest must comply with one of the following minimum standards or later revisions:

- (a) British Equestrian Trade Association (BETA):2000 Level 1
- (b) Euro Norm (EN) 13158:2000 Level 1
- (c) American Society for Testing and Materials (ASTM) F2681-08 or F1937.
- (d) Shoe and Allied Trade Research Association (SATRA) Jockey Vest Document M6 Issue 3
- (e) Australian Racing Board (ARB) Standard 1.1998

- (3) A safety helmet or a safety vest shall not be altered in any manner nor shall the product marking be removed or defaced.

(4) Reins

- a. All horses with a jockey or exercise rider mounted that are racing, parading or warming up prior to racing; or jogging or exercising at any time must be equipped with a type of safety reins approved by the commission. Reins to be approved must be originally designed and

- (3) During workouts, **both** lights and sirens shall be used **simultaneously**. When a warning system is activated, those working, galloping, or ponying horses shall slow down and no one on horseback shall enter the affected track.
- (4) During a race, **lights** and **sirens** shall be used **independently**. Only the **lights** shall be used to warn jockeys or a loose or injured horse, or other situation(s) where the race **shall continue**, but caution must be exercised. If the race is aborted, **sirens** shall also be used and the jockeys shall immediately slow their horses.

Adopted in Version 1.4 ARCI 8/27/02 NAPRA 10/2/02

Version 3.2 to 3.3 ARCI 12/7/05: Added new rule language

Version 4.0 to 4.1 ARCI 4/26/07: Added new rule language

Version 4.3 to 4.4 ARCI Board 12/10/08: Added emergency response procedure language

Version 6.0 to 6.1 ARCI Board 12/7/15 Added ARCI-007-020 (M) Emergency Track Warning System

Version 6.3 to 7.0 ARCI Board of Directors 12/09/2016, amended ARCI 0007-020-E "Rail"

ARCI-007-025 Operations

A. Security

- (1) An association conducting a race meeting shall maintain security controls over its grounds. Security controls are subject to the approval of the Commission.
- (2) An association may establish a system or method of issuing credentials or passes to restrict access to its restricted areas or to ensure that all participants at its race meeting are licensed as required by these rules.
- (3) An association shall prevent access to and shall remove or cause to be removed from its restricted areas any person who is unlicensed, or who has not been issued a visitor's pass or other identifying credential, or whose presence in such restricted area is unauthorized.
- (4) Unless otherwise authorized by the Commission, an association shall provide continuous security in the stable area during all times that horses are stabled on the grounds. An association shall require any person entering the stable area to display valid credentials issued by the Commission or a visitor's pass issued by the association (See Chap. 8, Rule ARCI-008-010 Section X). A written record of all individuals admitted to the stable area between the hours of 12:00 midnight and 5:00 a.m. shall be maintained. At a minimum this record shall contain the name of the person admitted, the person's license number and the time admitted. An association shall provide security fencing around the stable area in a manner that is approved by the Commission.
- (5) On request by the Commission, an association shall provide a list of the security personnel, including the name, qualifications, training, duties duty station and area supervised by each employee.
- (6) Each day, the chief of security for an association shall deliver a written report to the stewards regarding occurrences on association grounds on the previous day. Not later than 24 hours after an incident occurs requiring the attention of security personnel, the chief of security shall deliver to the stewards a written report describing the incident. The report must include the name of each individual involved in the incident,

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the circumstances of the incident and any recommended charges against each individual involved.

- (7) Race day Security Measures, such as the following, shall be enacted:
- (a) The administration of any controlled therapeutic medication to a horse within 24 hours of the scheduled post time for which a horse is entered to compete shall result in a scratch except for the Administration of furosemide as permitted in ARCI-011-020 (F).
 - (b) Except in circumstances involving the health and/or safety of the horse, contact with a horse by a veterinarian other than an Official Veterinarian or designee any time 24 hours *prior to the post time of the race for which a horse is entered to compete* may result in a scratch.
 - (c) Contact with a horse within 24 hours prior to the post time of the race for which a horse is entered to compete (unless the horse has been previously scratched) shall only be by licensed personnel or an individual issued a visitor's pass or other identifying credential, notwithstanding veterinarians approved under Section 2 above.
 - (d) All horses entered to compete shall be present on association property no less than five (5) hours prior to the scheduled post time of the race for which the horse is entered to compete. Horse(s) not arriving on racing association property at least five (5) hours prior to the scheduled post time of the race on the day for which the horse is entered to compete are subject to scratch, with discretion given to stewards to consider extenuating circumstances.
 - (e) (Deferred 4-24-2013) All horses entered to compete shall be clearly identified by signs plainly stating "IN TODAY" displayed clearly next to or on the stall doors not less than twenty-four (24) hours prior to the scheduled post time of the race in which the horse is entered to compete, or be subject to scratch. "IN TODAY" signs should contain the name of the entered horse, along with a toll-free telephone number for track security in order to facilitate reporting violations. Copies of a horse identifier's list of entered horses with their tattoo numbers shall be made available to security personnel who patrol the general barn area to be used for checks of "IN TODAY" horses.
 - (f) (Deferred 4-24-2013) All horses entered to compete that do not reside on racing association property and that arrive on racing association property within 24 hours of the post time of the race for which they are entered are required to go directly to the receiving barn, or other location authorized by the racing association, and be placed in an IN TODAY stall upon arriving on association grounds and are subject to heightened surveillance in order to prevent unauthorized access to horses that would provide an opportunity for inappropriate medication administration.
 - (g) All horses on the association grounds may be required to report to a receiving barn, or other such location designated by the racing association, forty-five (45) minutes prior to the scheduled post time for the race in which the horse is entered to compete. Access to the receiving barn or other such location designated by

- (2) The stewards may require visible display of a license in a restricted area.
- (3) A license may only be used by the person to whom it is issued.

Y. Visitor's Pass

Track security may authorize unlicensed persons temporary access to restricted areas. Such persons shall be identified and their purpose and credentials verified and approved in writing by track security. A copy of the written approval shall be filed with the Commission or its designee within 48 hours. Such authorization or credential may only be used by the person to whom it is issued.

Z. Safety Equipment

(1) Helmets

Any person mounted on a horse or stable pony on association grounds must wear a properly secured safety helmet at all times. Additionally, all members of the starting gate crew must adhere to this regulation at all times while performing their duties or handling a horse. For the purpose of this regulation, a member of the starting crew means any person licensed as an assistant starter or any person who handles a horse in the starting gate. The helmet must comply with one of the following minimum safety standards or later revisions:

- a) American Society for Testing and Materials (ASTM 1163);
- b) European Standards (EN-1384 or PAS-015 or VG1);
- c) Australian/New Zealand Standards (AS/NZ 3838; or
- d) ARB HS 2012; or Snell Equestrian Standard 2001.

(2) Vests

Any person mounted on a horse or stable pony on the association grounds must wear a properly-secured safety vest at all times. Additionally, all members of the starting gate crew must also adhere to this regulation at all times while performing their duties or handling a horse. For the purpose of this regulation, a member of the starting gate crew means any person licensed as an assistant starter or any person who handles a horse at the starting gate. The safety vest must comply with one of the following minimum standards or later revisions:

- (a) British Equestrian Trade Association (BETA):2000 Level 1
 - (b) Euro Norm (EN) 13158:2000 Level 1
 - (c) American Society for Testing and Materials (ASTM) F2681-08 or F1937.
 - (d) Shoe and Allied Trade Research Association (SATRA) Jockey Vest Document M6 Issue 3
 - (e) Australian Racing Board (ARB) Standard 1.1998
- (3) A safety helmet or a safety vest shall not be altered in any manner nor shall the product marking be removed or defaced.
 - (4) Reins
 - a. All horses with a jockey or exercise rider mounted that are racing, parading or warming up prior to racing; or jogging or exercising at any time must be equipped with a type of safety reins approved by the commission. Reins to be approved must be originally designed and

previous day. Not later than ___ after an incident occurs requiring the attention of security personnel, the chief of security shall deliver to the Commission designee a written report describing the incident. The report must contain the name of each individual involved in the incident, the circumstances of the incident and any recommended charges against each individual involved. The association shall maintain an incident report for at least ___ after the date of the incident for inspection by the Commission and shall provide any additional information relating to security requested by the Commission.

B. Visitor's Pass

- (1) An association may issue a visitor's pass to a person to enter restricted areas in accordance with this section. The security personnel shall maintain a log showing the date and time of issuance, the name of the visitor, pass number and the licensee requesting the pass and that person's Commission license number. A visitor to whom a visitor's pass has been issued shall display the pass on his/her clothing at all times while in restricted areas.
- (2) An association may issue a visitor's pass only to a guest of:
 - (a) an association officer or official;
 - (b) a Commission employee;
 - (c) a trainer, assistant trainer or kennel operator licensed by the Commission; or
 - (d) the owner of a greyhound racing at the meeting.
- (3) A visitor's pass must contain:
 - (a) the visitor's name;
 - (b) the sequential pass number;
 - (c) the date the pass was issued; and
 - (d) the expiration date.
- (4) A visitor's pass issued under this section is valid for the period the pass is issued. A visitor's pass does not entitle the person to whom the pass is issued to participate in racing in any way other than as a patron, except for an individual who delivers or accompanies a greyhound to the association grounds at a time when the Commission licensing office is closed.
- (5) The licensee requesting the visitor's pass is responsible for the proper conduct of the visitor and shall ensure compliance by the visitor with all Commission rules.

C. Fire Protection

- (1) 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. An evacuation plan will be posted by the association and a copy of which will be provided to the commission.
- (2) Not later than ___ before the first day of a race meeting, an association shall deliver to the Commission a copy of the state or local fire marshal's certification regarding the association's compliance with fire safety regulations or the fire marshal's plans of corrections. The certification or plan must be based on an inspection of the

- (4) An association shall provide an adequate area for the placement of manure removed from the stalls. All manure must be removed from the stable area daily.
- (5) The association shall ensure that refuse from the stalls and other refuse are kept separate.

L. Test Barn

- (1) An association shall provide a test barn for taking specimens of urine, blood or other bodily substances or tissues for testing.
- (2) The test barn must be equipped with:
 - (a) a walk area that is large enough to accommodate ___ horses;
 - (b) at least ___ enclosed stalls that permit observation of the collection process and provide for the protection of collection personnel;
 - (c) facilities and equipment for the collection, identification and storage of samples;
 - (d) a washrack that is large enough to accommodate ___ horses at the same time;
 - (e) hot and cold running water and clean water buckets for each horse.
- (3) An association shall limit access to the test barn to persons authorized by the official veterinarian. All entrances shall be locked or guarded at all times.

M. Isolation Area

- (1) An association shall provide an isolation area for the care and treatment of a horse that is ordered isolated by the racing veterinarian or the official veterinarian.
- (2) The isolation area must be approved by the official veterinarian.

Adopted in Version 1.4 ARCI 8/27/02 NAPRA 10/2/02
Version 4.0 to 4.1 ARCI 4/26/07: Added new rule language

ARCI-021-025 OPERATIONS

A. Security

- (1) An association conducting a race meeting shall maintain security controls over its premises. Security controls are subject to the approval of the Commission.
- (2) An association may establish a system or method of issuing credentials or passes to restrict access to its restricted areas or to ensure that all participants at its race meeting are licensed as required by these rules.
- (3) An association shall prevent access to and shall remove or cause to be removed from its restricted areas any person who is unlicensed, or who has not been issued a visitor's pass or other identifying credential, or whose presence in such restricted area is unauthorized.
- (4) Unless otherwise authorized by the Commission, an association shall provide continuous security in the stable area during all times that horses are stabled on the grounds. An association shall require any person entering the stable area to display valid credentials issued by the Commission or a visitor's pass issued by the association. An association shall provide security fencing around the stable area in a manner that is approved by the Commission.

EXHIBIT H

- (4) The trainer or trainer's designee shall be required to identify the distance the horse is to be worked and the point on the track where the workout will start.

C. Information Dissemination

Information regarding a horse's approved timed workout(s) shall be furnished to the public prior to the start of the race for which the horse has been entered.

D. Restrictions

A horse shall not be taken onto the track for training or a workout except during hours designated by the association.

Adopted in Version 1.4 ARCI 8/27/02 NAPRA 10/2/02

Version 4.4 to 4.5 Amended language added micro chip and freeze brand

ARCI-010-030 Horses Ineligible

A horse is ineligible to start in a race when:

- (1) it is not stabled on the grounds of the association or present by the time established by the Commission;
- (2) its breed registration certificate is not on file with the racing secretary or horse identifier; unless the racing secretary has submitted the certificate to the appropriate breed registry for correction; 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;
- (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 Commission;
- (4) it has been fraudulently entered or raced in any jurisdiction under a different name, with an altered registration certificate or altered lip tattoo, microchip ISO 11784, freeze brand or other identification method approved by the appropriate breed registry and the Commission;
- (5) it is wholly or partially owned by or is under the direct or indirect training or management of a person who for any reason is ineligible to be licensed to participate in this jurisdiction;
- (6) it is wholly or partially owned by or is under the direct or indirect management of the spouse of a person who for any reason is ineligible to be licensed or participate in this jurisdiction; in such cases, it being presumed that the person who for any reason is ineligible to be licensed or participate in this jurisdiction and spouse constitute a single financial entity with respect to the horse, which presumption may be rebutted;
- (7) the stakes or entrance money for the horse has not been paid, in accordance with the conditions of the race;
- (8) the losing jockey mount fee is not on deposit with the horsemen's bookkeeper;
- (9) its name appears on the Starter's List, Stewards' List or Veterinarian's List except when an unforeseen administrative issue occurs in removing the horse from the Veterinarian's List of another racing jurisdiction, however the horse is eligible to be

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entered while on the Veterinarian's List subject to section ARCI-010-030(B) as long as no other horse is excluded from the race;

- (10) it has not raced in 12 months since its previous start, until the horse has been subjected to the protocols within ARCI-011-030(B)(4)
- (11) it is a first-time starter four (4) years of age or older, until the horse has been subjected to the protocols within ARCI-011-030(B)(4)
- (12) it is a first-time starter and has not been approved to start by the starter;
- (13) it is owned in whole or in part by an undisclosed person or interest;
- (14) it lacks sufficient official published workouts or race past performance(s);
- (15) it has been entered in a stakes race and has subsequently been transferred with its engagements, unless the racing secretary has been notified of such prior to the start;
- (16) it is subject to a lien which has not been approved by the stewards and filed with the horsemen's bookkeeper;
- (17) it is subject to a lease not filed with the stewards;
- (18) it is not in sound racing condition;
- (19) it has had a surgical neurectomy performed on a heel nerve, which has not been approved by the official veterinarian;
- (20) it has been trachea tubed to artificially assist breathing;
- (21) it has been blocked with alcohol or otherwise drugged or surgically denerved to desensitize the nerves above the ankle;
- (22) it has impaired eyesight in both eyes;
- (23) it is barred or suspended in any recognized jurisdiction;
- (24) it does not meet the eligibility conditions of the race;
- (25) its owner or lessor is in arrears for any stakes fees, except with approval of the racing secretary;
- (26) its owner(s), lessor(s) and/or trainer have not completed the licensing procedures required by the Commission;
- (27) it is by an unknown sire or out of an unknown mare; or
- (28) there is no current negative test certificate for Equine Infectious Anemia attached to its breed registration certificate or proof of a negative test certificate is not otherwise available if the stewards have waived the requirement of a registration certificate, as required by statute.
- (29) If a thoroughbred, it has shoes (racing plates) which have toe grabs with a height greater than two millimeters (0.07874 inches), bends, jars, caulks, stickers or any other traction device on the front hooves while racing or training on all racing surface.

Adopted in Version 1.4 ARCI 8/27/02 NAPRA 10/2/02

Version 4.0 to 4.1 ARCI 4/26/07: Added new rule language

Version 4.2 to 4.3 ARCI Board 8/2/08: Revised Toe Grab language

Version 4.4 to 4.5 ARCI 4/23/09 Amended language added microchip and freeze brand language and paper exception

Version 5.6 to 5.7 ARCI Board 4/9/2014 Amended ARCI-010-030 (5) and (6) to delete language pertaining to "disqualified person"

Version 7.0 to 8.0 ARCI Board 4/20/2017 Amended ARCI-010-030(9), added (10) and (11), renumbered accordingly

EXHIBIT I

71 IAC 7-3-10 Horse must finish

Authority: IC 4-31-3-9
Affected: IC 4-31

Sec. 10. If for any cause other than being interfered with or broken equipment, a horse fails to finish after starting in a heat, that horse shall be ruled out. (*Indiana Horse Racing Commission; 71 IAC 7-3-10; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1162; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; readopted filed Nov 26, 2013, 11:25 a.m.: 20131225-IR-071130345RFA*)

71 IAC 7-3-11 Improper conduct in race

Authority: IC 4-31-3-9
Affected: IC 4-31

Sec. 11. (a) Loud shouting or other improper conduct is forbidden in a race. Unless otherwise provided in this rule, drivers shall keep both feet in the stirrups at all times while on the track and during a race.

(b) Drivers are not allowed to lay back in the sulky, and handholds are to be adjusted accordingly.

(c) Drivers laying back in the sulky taking racing room away from a trailing horse may be considered an act of interference. (*Indiana Horse Racing Commission; 71 IAC 7-3-11; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1162; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Jan 21, 2004, 2:30 p.m.: 27 IR 1918; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; readopted filed Nov 26, 2013, 11:25 a.m.: 20131225-IR-071130345RFA*)

71 IAC 7-3-12 Feet in stirrups

Authority: IC 4-31-3-9
Affected: IC 4-31

Sec. 12. After the starting gate is in motion, both feet must be kept in the stirrups until after the finish of the race, except that a driver shall be allowed to remove a foot from the stirrups temporarily for the purpose of pulling ear plugs. (*Indiana Horse Racing Commission; 71 IAC 7-3-12; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1162; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; readopted filed Nov 26, 2013, 11:25 a.m.: 20131225-IR-071130345RFA*)

71 IAC 7-3-13 Whip restriction

Authority: IC 4-31-3-9
Affected: IC 4-31

Sec. 13. (a) In all pari-mutuel and qualifying races drivers will be allowed whips not to exceed four (4) feet plus a snapper not longer than six (6) inches. Drivers must have control of their horses at all times and handholds must be adjusted so as to be taut with the elbows in front of the chest.

(b) Whipping action shall be limited to wrist action with minimal elbow movement.

(c) The whip may strike above and between the shafts only. Whipping below the shaft in the stifle area may result in disqualification.

(d) The following actions shall be considered as excessive and/or indiscriminate:

- (1) Whipping of a horse during post parade or after the finish.
- (2) Continuous use of the whip.
- (3) Striking any part of the whip under the tail or between the legs.
- (4) Whipping a horse not advancing through the field.
- (5) Causing visible injury.
- (6) The use of any sharp object or stimulating device.
- (7) Any part of the whip may not be used for jabbing.

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(e) Drivers shall keep a line in each hand from the start of the race until the finish of the race.

(f) Violation of any of these rules may result in a fine and/or suspension or commission referral. (*Indiana Horse Racing Commission; 71 IAC 7-3-13; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1162; emergency rule filed Feb 13, 1998, 10:00 a.m.: 21 IR 2409; emergency rule filed Jun 8, 1999, 9:31 a.m.: 22 IR 3132, eff May 26, 1999 [IC 4-22-2-37.1 establishes the effectiveness of an emergency rule upon filing with the secretary of state. LSA Document #99-108(E) was filed with the secretary of state June 8, 1999.]; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Mar 27, 2002, 10:25 a.m.: 25 IR 2537; emergency rule filed Jan 21, 2004, 2:30 p.m.: 27 IR 1919; emergency rule filed May 10, 2005, 3:20 p.m.: 28 IR 2750; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; emergency rule filed Mar 12, 2008, 1:53 p.m.: 20080326-IR-071080191ERA, eff Mar 11, 2008 [IC 4-22-2-37.1 establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #08-191(E) was filed with the Publisher March 12, 2008.]; emergency rule filed May 12, 2008, 1:29 p.m.: 20080521-IR-071080353ERA; emergency rule filed Mar 19, 2009, 11:07 a.m.: 20090401-IR-071090195ERA, eff Mar 12, 2009 [IC 4-22-2-37.1 establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #09-195(E) was filed with the Publisher March 19, 2009.]; emergency rule filed Mar 23, 2010, 1:27 p.m.: 20100331-IR-071100170ERA; readopted filed Nov 26, 2013, 11:25 a.m.: 20131225-IR-071130345RFA; emergency rule filed Mar 30, 2016, 12:18 p.m.: 20160406-IR-071160138ERA)*)

71 IAC 7-3-14 Brutal use of whip (Repealed)

Sec. 14. (*Repealed by Indiana Horse Racing Commission; emergency rule filed Feb 13, 1998, 10:00 a.m.: 21 IR 2415*)

71 IAC 7-3-15 Hobbles; head pole, restrictions

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 15. Any horse going on/off hobbles for the first time from the last start must requalify. Subsequent changes may be approved by the judges with good cause. No horse shall be permitted to wear a head pole protruding beyond its nose. (*Indiana Horse Racing Commission; 71 IAC 7-3-15; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1163; emergency rule filed Feb 13, 1998, 10:00 a.m.: 21 IR 2410; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; emergency rule filed Mar 8, 2012, 11:43 a.m.: 20120321-IR-071120117ERA; readopted filed Nov 26, 2013, 11:25 a.m.: 20131225-IR-071130345RFA*)

71 IAC 7-3-16 Breaking

Authority: IC 4-31-3-9

Affected: IC 4-31

Sec. 16. (a) When any horse or horses break from their gait in trotting or pacing, their driver shall at once, where clearance exists, take such horse either to the inside or outside and pull it to its gait.

(b) The following shall be considered violations of subsection (a):

- (1) Failure to properly attempt to pull a horse to its gait.
- (2) Failure to take to the inside or outside where clearance exists.
- (3) Failure to lose ground by the break.
- (4) An extended break.

(c) If there has been no failure on the part of the driver in complying with subsection (a), the horse shall not be set back unless a contending horse on its gait is lapped on the hind quarter of the breaking horse at the finish.

(d) The judges may set any horse back one (1) or more places if in their judgment any violations as established in subsection (b) or (c) have been committed.

(e) Any horse making a break which causes interference with other contesting horses shall be placed behind all horses interfered with unless the judges determine that a driver of a trailing horse did not exercise reasonable alertness in avoiding the situation. (*Indiana Horse Racing Commission; 71 IAC 7-3-16; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1163;*

Association, it is a violation of the Rules for a driver, or the person in control of the horse, to engage in any of the following actions with respect to their driving conduct:

- (a) Indiscriminate action, which is characterized by unrestrained or careless activity;
- (b) Excessive action, which is characterized by unreasonable quantity or degree;
- (c) Aggressive action, which is characterized by inhumane, severe or brutal activity.

22.23.02 The whip shall not be used on a horse in a race:

- (a) where the horse is not visibly responding; or
- (b) where the horse is not in contention for a meaningful position.

22.23.03 At any time while on the grounds of an Association, it is a violation of the Rules for a driver, or the person in control of the horse, to use the whip to hit or make contact with the horse as follows:

- (a) To raise their hand(s) above their head;
- (b) To cause the whip to move back beyond a 90-degree angle relative to the track;
- (c) To cause any portion of the whip to be outside the confines of the wheels of the race bike;
- (d) To strike the shaft of the race bike, or the horse below the level of the shaft of the race bike;
- (e) To cut or severely welt a horse.

22.23.04 A driver, or the person in control of the horse, is required to:

- (a) keep a line in each hand for the entire race, from the starter's call to the gate until the finish of the race, except for the purpose of adjusting equipment;

Joint Committee on Administrative Rules
ADMINISTRATIVE CODE

TITLE 11: ALCOHOL, HORSE RACING, LOTTERY, AND VIDEO GAMING
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER f: RULES AND REGULATIONS OF HARNESS RACING
PART 1318 RACING RULES
SECTION 1318.90 USE OF THE WHIP

Section 1318.90 Use of the Whip

- a) Drivers will be allowed whips not to exceed 4 feet in total length plus a snapper not longer than 6 inches. All whips are subject to inspection and measurement by the Board. Whips shall not be modified and snappers shall not be knotted.
- b) Whipping below the shafts, including but not limited to the stifle area, is prohibited.
- c) The following actions shall be considered as excessive and/or abusive:
 - 1) Whipping a horse during a post parade, scoring down, or after the finish of a race, except when necessary to control the horse;
 - 2) Use of the whip as a poking or goading device;
 - 3) Striking any part of the horse under the tail or between the legs;
 - 4) Whipping a horse that is not advancing or is out of contention;
 - 5) Causing visible injury; or
 - 6) Use of any object or stimulating device.
- d) Whipping a horse during the race, when it is necessary to control the horse, shall not be considered excessive and/or abusive.
- e) Drivers shall keep a line in each hand from the start of the race until the beginning of the open stretch or the $\frac{7}{8}$ mile pole, as applicable. One handed whipping from the beginning of the open stretch or the $\frac{7}{8}$ mile pole to the finish of the race is restricted to elbow and wrist action only. The whipping arm shall not be raised above shoulder height or behind the driver. One-handed whipping shall be prohibited entering the stretch the first time on a $\frac{1}{2}$ mile racetrack.
- f) Penalties
Penalties for violation of any of the provisions of this Section are as follows:
 - 1) 1st offense – minimum fine of \$200 to a maximum fine of \$500;

- 2) 2nd offense within a 365 day period after the 1st offense – minimum fine of \$400 to a maximum fine of \$1,000;
- 3) 3rd offense within a 365 day period after the 1st offense – minimum fine of \$1,000 and a 7 day suspension;
- 4) For a 4th or subsequent offense within a 365 day period after the 1st offense – minimum fine of \$2,000 and a 10 day suspension.

(Source: Amended at 40 Ill. Reg. 3757, effective March 1, 2016)

EXHIBIT J

71 IAC 7-3-10 Horse must finish

Authority: IC 4-31-3-9
Affected: IC 4-31

Sec. 10. If for any cause other than being interfered with or broken equipment, a horse fails to finish after starting in a heat, that horse shall be ruled out. (*Indiana Horse Racing Commission; 71 IAC 7-3-10; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1162; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; readopted filed Nov 26, 2013, 11:25 a.m.: 20131225-IR-071130345RFA*)

71 IAC 7-3-11 Improper conduct in race

Authority: IC 4-31-3-9
Affected: IC 4-31

Sec. 11. (a) Loud shouting or other improper conduct is forbidden in a race. Unless otherwise provided in this rule, drivers shall keep both feet in the stirrups at all times while on the track and during a race.

(b) Drivers are not allowed to lay back in the sulky, and handholds are to be adjusted accordingly.

(c) Drivers laying back in the sulky taking racing room away from a trailing horse may be considered an act of interference. (*Indiana Horse Racing Commission; 71 IAC 7-3-11; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1162; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Jan 21, 2004, 2:30 p.m.: 27 IR 1918; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; readopted filed Nov 26, 2013, 11:25 a.m.: 20131225-IR-071130345RFA*)

71 IAC 7-3-12 Feet in stirrups

Authority: IC 4-31-3-9
Affected: IC 4-31

Sec. 12. After the starting gate is in motion, both feet must be kept in the stirrups until after the finish of the race, except that a driver shall be allowed to remove a foot from the stirrups temporarily for the purpose of pulling ear plugs. (*Indiana Horse Racing Commission; 71 IAC 7-3-12; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1162; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; readopted filed Nov 26, 2013, 11:25 a.m.: 20131225-IR-071130345RFA*)

71 IAC 7-3-13 Whip restriction

Authority: IC 4-31-3-9
Affected: IC 4-31

Sec. 13. (a) In all pari-mutuel and qualifying races drivers will be allowed whips not to exceed four (4) feet plus a snapper not longer than six (6) inches. Drivers must have control of their horses at all times and handholds must be adjusted so as to be taut with the elbows in front of the chest.

(b) Whipping action shall be limited to wrist action with minimal elbow movement.

(c) The whip may strike above and between the shafts only. Whipping below the shaft in the stifle area may result in disqualification.

(d) The following actions shall be considered as excessive and/or indiscriminate:

- (1) Whipping of a horse during post parade or after the finish.
- (2) Continuous use of the whip.
- (3) Striking any part of the whip under the tail or between the legs.
- (4) Whipping a horse not advancing through the field.
- (5) Causing visible injury.
- (6) The use of any sharp object or stimulating device.
- (7) Any part of the whip may not be used for jabbing.

EXHIBIT K

employees, and all licensees, who so accept such conditions pursuant to Rule 1870 shall, before they terminate or discontinue their employment, engagements or activities, give the Board and the association with whom they are engaged, at least 15 days notice in writing of their intentions to terminate or discontinue their employment, engagements or activities under such conditions. The Board may upon notice to all parties of interest, conduct a hearing with respect to any termination or discontinuance of employment.

1872. Failure to Fulfill Jockey Agreement.

No jockey engaged for a certain race or for a specified time may fail or refuse to abide by his agreement unless excused by the stewards.

1873. Furnishing Racing Selection.

No licensee, employee of the racing association, or employee of any concessionaire of the racing association shall furnish a handicap or selection or racing prediction to any racing prediction or selection service or to any tipster sheet required to file with the Board pursuant to section 19664 of the Business and Professions Code.

1874. Disorderly Conduct.

No licensee, shall be under the influence of any alcoholic beverage, and/or any illegal substance while performing their respective duties while within the inclosure of any racing association or fair, simulcast wagering facility, auxiliary stabling facility or Board-approved training facility. Nor shall any licensee conduct themselves in a disorderly or boisterous manner at any time while within the inclosure of any racing association or fair, simulcast wagering facility, auxiliary stabling facility or Board-approved training facility including but not limited to:

1. Fighting;
2. Threatening, abusive or aggressive behavior toward another person;
3. Any behavior that impedes others from performing their duties; and/or
4. Any other behavior that is detrimental to the public and racing.

NOTE: Authority cited: Sections 19440 and 19460, Business and Professions Code. Reference: Sections 19440 and 19460, Business and Professions Code.

HISTORY:

1. Amendment filed 3-28-96; effective 4-27-96.

1875. Firearms.

No licensee, employee of the association or its concessionaires, shall possess a firearm while on the grounds of a facility within the purview or control of the Board unless such possession has been authorized by state or federal law, and unless the documentation of such authorization is on his or her person.

NOTE: Authority cited: Sections 19420, 19440 and 19460, Business and Professions Code. Reference: Sections 19420, 19440 and 19460, Business and Professions Code.



RUNNER



Issued by: Minnesota Racing Commission

Licensee Information

Master ID: 1999033

Ruling Against: CLAUDE JERRY LIVINGSTON

Ruling Information

Ruling Type: **Conduct Detrimental to Racing**

Ruling Date: **7/10/2010**

Facility: **Canterbury Park**

Fine Amount: **200**

Fine Paid?

Breed: **Quarter Horse** Division: **Horse**

Suspension Start:

Suspension End:

Alpha Ruling:	Action Type:	Issue Date:
10048	Initial Ruling	7/10/2010

Description:

Trainer Claude J Livingston is hereby assessed a penalty of \$200 for exhibiting a display of temper while abusing his horse in saddling of the 9th race at Canterbury Park on July 8, 2010. MRC Rule 7879.0200 - Authority of Stewards.

License Types Affected

License Number	State	License Type	Affected
No License Type Records			

Ruling Record owned by the Minnesota Racing Commission.
Ruling Record created on 7/10/2010 11:49:30 AM (Eastern Time) by Colleen Hurlbert.
Last Modified on 7/23/2010 5:52:10 PM (Eastern Time) by Colleen Hurlbert.



RULINGS



Issued by: Minnesota Racing Commission

Licensee Information

Master ID: 1873574

Ruling Against: TAMARA JO METZEN

Ruling Information

Ruling Type: **Conduct Detrimental to Racing**

Ruling Date: **8/16/2017**

Facility: **Canterbury Park**

Fine Amount: **1000** Fine Paid?

Breed: **Thoroughbred Division: Horse**

Suspension Start: Suspension End:

Alpha Ruling:	Action Type:	Issue Date:
C17091	Initial Ruling	8/16/2017

Description:

Owner Tamara Jo Metzen, having responded telephonically on August 10, 2017 to a notice of hearing, is hereby assessed a civil penalty of One Thousand Dollars (\$1,000) for conduct that is detrimental to the best interests of racing.

On July 30, 2017, Owner Metzen launched into a profanity-laced verbal rebuke directed at Jockey Larren Delorme, rider of Metzen-owned Rockin Home. This incident took place in the unsaddling area in close proximity and earshot of the public.

Metzen then proceeded to the Jockeys' Quarters and told Clerk of Scales Mark Anderson that she wanted to speak to Delorme. Anderson told Metzen to wait and he would get Delorme. Metzen disregarded Anderson's request to wait and went directly into the male section of the Jockeys' Quarters in specific violation of MRC Rule 7897.0100 (Prohibited Acts) Subp. 8-Contact with jockeys.

Minnesota Rules: 7879.0200 (Authority and Duties of Stewards) Subp. 1.A.B.-General authority of stewards. 7877.0155 H. (Conditions Precedent to Licensing) 7897.0100 (Prohibited Acts) Subp. 8.-Contact with jockeys/drivers.

License Types Affected

License Number	State	License Type	Affected
No License Type Records			

Ruling Record owned by the Minnesota Racing Commission.
 Ruling Record created on 8/18/2017 5:36:42 PM (Eastern Time) by rci Minnesota.
 Last Modified on 8/29/2017 8:16:54 PM (Eastern Time) by rci Minnesota.




Issued by: Horse Racing Alberta

Licensee Information

Master ID: 444329

Ruling Against: Michael Riley Hennessy

Ruling Information

Ruling Type: Conduct Detrimental to Racing

Ruling Date: 10/9/2017

Facility: Northlands Park

Fine Amount: Fine Paid?

Breed: Harness Division: Horse

Suspension Start: 10/13/2017 Suspension End: 10/20/2017

Alpha Ruling:	Action Type:	Issue Date:
2017-NP-H#105	Initial Ruling	10/9/2017

Description:

Suspended 3 race days, October 13, 13 and 20, 2017 H.R.A. Rule 286(a) and 287(1)(iii); a person violates these rules who, in the opinion of the Judges'stewards board, conducts themselves in a manner prejudicial to the best interest of horse racing and a person also violates these rules who threatens or intimidates a racing official or racing participant or tries to do so.

License Types Affected

License Number	State	License Type	Affected
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No License Type Records

Ruling Record owned by the Horse Racing Alberta.

Ruling Record created on 10/9/2017 5:54:29 PM (Eastern Time) by RCI Alberta.

Last Modified on 10/9/2017 5:54:39 PM (Eastern Time) by RCI Alberta.

[Licensees](#) [Rulings](#) [Horse Tracking](#) [Bulletin Board](#) [Preferences](#) [Log Off](#)



RULING



Issued by: Horse Racing Alberta

Licensee Information

Master ID: 456267

Ruling Against: JUSTIN RICHARD CURRIE

Ruling Information

Ruling Type: **Conduct Detrimental to Racing**

Ruling Date: **12/23/2017**

Facility: **Northlands Park**

Fine Amount: 250

Fine Paid?

Breed: Harness Division: Horse

Suspension Start: Suspension End:

Alpha Ruling:	Action Type:	Issue Date:
2017-NP-H#114	Initial Ruling	12/23/2017

Description:

Fined \$250.00 H.R.A. Rule 286(a); a person violates these rules who, in the opinion of the judges/stewards board, conducts themselves in a manner prejudicial to the best interest of horse racing, and H.R.A. Rule 287(1)(xxx); a person also violates these rules who uses profane or indecent language at a race track; for his use of profane and indecent language towards the Racing Officials.

License Types Affected

License Number	State	License Type	Affected
No License Type Records			

Ruling Record owned by the Horse Racing Alberta.
Ruling Record created on 12/27/2017 5:17:07 PM (Eastern Time) by RCI Alberta.
Last Modified on 12/27/2017 5:17:11 PM (Eastern Time) by RCI Alberta.



BOARD OF STEWARDS – RULING

**MINNESOTA RACING COMMISSION
CANTERBURY PARK
1100 Canterbury Road
Shakopee, Minnesota 55379
952-496-7950**

Ruling # C17107
Paid \$ _____ Date _____
Date Sent to ARCI _____

NAME: Turner Christian Robert
LAST FIRST MIDDLE

MRC# 3586 OCCUPATION: Assistant Starter/Valet

VIOLATION: Suspension/Conduct Detrimental

VIOLATION DATE: August 26, 2017 RULING DATE: September 8, 2017

NARRATIVE:

Assistant Starter/Valet Christian Turner, having appeared before the Board of Stewards on September 2, 2017 in response to a notice of hearing, is hereby suspended through the balance of the 2017 Canterbury Park race meet, which ends on September 16, in order to protect the safety, health and welfare as his conduct has been in violation of rules of the Minnesota Racing Commission.

During the formal hearing, Christian Turner testified under oath and apologized for his disorderly conduct and abusive verbal attack on a paramedic, who had just finished attending to an injured jockey, shortly after the 9th Race at Canterbury Park on August 26, 2017.

Christian Turner is declared ineligible for licensing consideration in any capacity until he can provide documentation that he has successfully completed a certified drug and alcohol abuse program, and has produced a negative urinalysis from a certified laboratory.

During his suspension Christian Turner is denied privileges of the grounds of all racetracks under the jurisdiction of the Minnesota Racing Commission.

Minnesota Statute:
Minnesota Rules:

- 7879.0200 (Stewards Authority and Duties) Subp. 1.A.C.-General authority of stewards.
- 7877.0155 H. (Conditions Precedent to Licensing)
- 7897.0110 (Use of Drugs and Alcohol) Subp. 1.-Drugs.
- 7897.0120 (Disciplinary Sanctions) Subp. 1-Licenses; Subp. 2.-Exclusion from racetrack.
- 7897.0150 (Disciplinary and Appeal Procedures). Subp. 1.A.B.C.-Stewards' meetings; Subp. 2.A.-Penalties imposed by stewards.

FINES ARE DUE 72 HOURS FROM THE DATE OF THE RULING

SUSPENSION: 9/2/17 through 9/16/17 TOTAL # OF DAYS: _____
FINE: \$.00

David Hooper Jennifer Durenberger David A. Smith
DAVID HOOPER JENNIFER DURENBERGER DAVID A. SMITH

EXHIBIT L



BOARD OF STEWARDS – RULING

MINNESOTA RACING COMMISSION
CANTERBURY PARK
1100 Canterbury Road
Shakopee, Minnesota 55379
952-496-7950

Ruling #	C17118-amended		
Paid \$	_____	Date	_____
Date Sent to ARCI	_____		

NAME: Miller Shane Daniel
LAST FIRST MIDDLE

MRC# 2596 OCCUPATION: Trainer

VIOLATION: Medication Violation

VIOLATION DATE: August 12, 2017 RULING DATE: October 17, 2017

NARRATIVE:

Having been noticed for a formal hearing and having appeared via conference call before the Board of Stewards at Canterbury Park on October 10, 2017, Trainer Shane Miller is hereby suspended 90 days, October 18, 2017 through January 15, 2018 and assessed a civil penalty of Five Thousand Dollars (\$5,000) for a Class 1, Category A medication violation (Methamphetamine). This is the maximum Minnesota statutory and rule authority of the Board of Stewards, and the matter is referred to the Minnesota Racing Commission for any further action deemed necessary. Under Minnesota Racing Commission Rule 7897.0130 Subp. 2 and 4, this finding is a per se serious violation which calls into question the integrity of pari-mutuel horse racing, public welfare, health or safety.

On August 26, 2017, Industrial Laboratories reported the finding of Methamphetamine in excess of the level of detection in serum in Sample No. E241117 taken from PR Lady in Red, 1st-place finisher in the 1st Race on August 12, 2017 at Canterbury Park. A split serum sample was sent to the Texas A&M Veterinary Medical Diagnostic Laboratory ("TVMDL") for confirmation and chiral analysis. A letter dated September 24, 2017 was received from the TVMDL confirming the presence of D-Methamphetamine in the split serum sample, an Association of Racing Commissioners International ("ARCI") Class 1, Penalty Category A, medication violation.

The Board of Stewards did not find that Mr. Miller offered substantial evidence that neither he nor any employee or agent was responsible for the administration of the medication required to overcome the presumption outlined in Minnesota Racing Commission Rule 7877.0170 Subp. 2.C.(3)

This is Mr. Miller's first lifetime Class 1, Category A medication violation.

During the term of the suspension, Trainer Shane Miller is denied privileges of all grounds under the jurisdiction of the Minnesota Racing Commission. Further, all horses owned and/or trained by Mr. Miller are ineligible for entry pending sale and/or transfer approved by the stewards.

PR Lady in Red is hereby disqualified from first and declared unplaced. The revised order of finish for the 1st Race on August 12, 2017 at Canterbury Park is as follows: 1st--#3 Berry Quick, 2nd--#1 Virgil Cole, 3rd--#4 TD Cartel Express, and 4th--#5 Tricky Hornet. The Horseperson's Bookkeeper is directed to make necessary changes to payment of purses for the subject race. If PR Lady in Red's share of the purse has been paid, it is hereby ordered returned to the Horseperson's Bookkeeper.



RULING

← **MAIN**
MENU

Issued by: Arizona Department of Racing

Licensee Information

Master ID: 1954848

Ruling Against: Erick N Rivera

Ruling Information

Ruling Type: **Conduct Detrimental to Racing**

Ruling Date: **12/6/2017**

Facility: **Turf Paradise**

Fine Amount: _____ Fine Paid? _____

Breed: _____ Thoroughbred Division: **Horse**

Suspension Start: **12/6/2017** Suspension End: _____

Alpha Ruling:	Action Type:	Issue Date:
17-18TP030	Initial Ruling	12/6/2017

Description:

Groom Erick Nelson Rivera-Parrilla (ADG #17575) is hereby summarily suspended and denied access to all grounds under the jurisdiction of the Arizona Department of Gaming pending a hearing on December 18, 2017 before the Board of Stewards for conduct detrimental to the best interest of racing, and the safety, welfare, economy, health and peace of the people of the state as well.

The above described matter constitutes a violation in accordance with: A.A.C. R19-2-106.C.; A.A.C. R19-2-112.12.; A.A.C. R19-2-112.13.; A.A.C. R19-2-121.E.2.; A.A.C. R19-2-121.E.3.; A.A.C. R19-2-121.E.6.; A.A.C. R19-2-121.E.7.; A.R.S. 5-108.A.1.a.b.c.g.h.;

License Types Affected

License Number	State	License Type	Affected
No License Type Records			

Ruling Record owned by the Arizona Department of Racing.
Ruling Record created on 12/7/2017 4:11:01 PM (Eastern Time) by RCI Arizona.
Last Modified on 12/7/2017 4:11:04 PM (Eastern Time) by RCI Arizona.



BOARD OF STEWARDS – RULING

MINNESOTA RACING COMMISSION
CANTERBURY PARK
1100 Canterbury Road
Shakopee, Minnesota 55379
952-496-7950

Ruling #	C17107
Paid \$	_____ Date _____
Date Sent to ARCI	_____

NAME: Turner Christian Robert
LAST FIRST MIDDLE

MRC# 3586 OCCUPATION: Assistant Starter/Valet

VIOLATION: Suspension/Conduct Detrimental

VIOLATION DATE: August 26, 2017 RULING DATE: September 8, 2017

NARRATIVE:

Assistant Starter/Valet Christian Turner, having appeared before the Board of Stewards on September 2, 2017 in response to a notice of hearing, is hereby suspended through the balance of the 2017 Canterbury Park race meet, which ends on September 16, in order to protect the safety, health and welfare as his conduct has been in violation of rules of the Minnesota Racing Commission.

During the formal hearing, Christian Turner testified under oath and apologized for his disorderly conduct and abusive verbal attack on a paramedic, who had just finished attending to an injured jockey, shortly after the 9th Race at Canterbury Park on August 26, 2017.

Christian Turner is declared ineligible for licensing consideration in any capacity until he can provide documentation that he has successfully completed a certified drug and alcohol abuse program, and has produced a negative urinalysis from a certified laboratory.

During his suspension Christian Turner is denied privileges of the grounds of all racetracks under the jurisdiction of the Minnesota Racing Commission.

Minnesota Statute:

Minnesota Rules:

7879.0200 (Stewards Authority and Duties) Subp. 1.A.C.-General authority of stewards.

7877.0155 H. (Conditions Precedent to Licensing)

7897.0110 (Use of Drugs and Alcohol) Subp. 1.-Drugs.

7897.0120 (Disciplinary Sanctions) Subp. 1-Licenses; Subp. 2.-Exclusion from racetrack.

7897.0150 (Disciplinary and Appeal Procedures). Subp. 1.A.B.C.-Stewards' meetings; Subp. 2.A.-Penalties imposed by stewards.

FINES ARE DUE 72 HOURS FROM THE DATE OF THE RULING

SUSPENSION: 9/2/17 through 9/16/17 TOTAL # OF DAYS: _____

FINE: \$.00

DAVID HOOPER

JENNIFER DURENBERGER

DAVID A. SMITH



BOARD OF JUDGES – RULING

MINNESOTA RACING COMMISSION
RUNNING ACES RACETRACK AND CASINO
15201 Zurich Street, Ste 212
Columbus, Minnesota 55025-7908
651-925-3951

Ruling # R17052
Paid \$ _____ Date _____
Date Sent to ARCI _____

NAME: Plano Luke
LAST FIRST MIDDLE

MRC# 2671 OCCUPATION: Driver

VIOLATION: Summary Suspension

VIOLATION DATE: September 10, 2017 RULING DATE: September 12, 2017

NARRATIVE:

Driver Luke Plano is hereby summarily suspended, In order to protect public safety, Health and welfare as his conduct may be in violation of statute or rules of the commission and may adversely affect the integrity of horse racing.

During the summary suspension, Driver Luke Plano is denied privileges of the grounds of all racetracks under the jurisdiction of the Minnesota Racing Commission.

Minnesota Statute :

240.08 (Occupation Licenses) Subd. 5 - Revocation and suspension

Minnesota Rules:

7879.0200 (Authority and Duties of Stewards) Subp. 1.A.C. - General Authority of Stewards
7897.0150 (Disciplinary and Appeal Procedures) Subp. 1. A. - Stewards Meetings

FINES ARE DUE 72 HOURS FROM THE DATE OF THE RULING

SUSPENSION: / / through / / TOTAL # OF DAYS: n/a

FINE: \$.00

RENEE SHEWARD

ERIC BEACH

MICHAEL PETERSON



ruling

Issued by: California Horse Racing Board

Licensee Information

Master ID: 706593

Ruling Against: ROGELIO OSORIO ORANTES

Ruling Information

Ruling Type: Conduct Detrimental to Racing

Ruling Date: 9/15/2017

Facility: Los Alamitos

Fine Amount: Fine Paid?

Breed: Quarter Horse Division: Horse

Suspension Start: 9/15/2017 Suspension End: 9/29/2017

Alpha Ruling:	Action Type:	Issue Date:
2017-LA-238	Initial Ruling	9/15/2017

Description:

GROOM ROGELIO ORANTES IS SUSPENDED FOR FIFTEEN (15) DAYS (SEPTEMBER 15, 2017 THROUGH SEPTEMBER 29, 2017) AND PLACED ON PROBATION FOR TWO (2) YEARS FROM THE DATE OF THIS RULING FOR VIOLATION OF CALIFORNIA HORSE RACING BOARD RULE #1902 (CONDUCT DETRIMENTAL TO HORSE RACING). FURTHERMORE, ROGELIO ORANTES SHALL SHOW PROOF OF A RECOVERY PROGRAM ACCEPTABLE TO THE STEWARDS AND SIGN A TEST AGREEMENT WITH THE CALIFORNIA HORSE RACING BOARD. DURING THE TERM OF SUSPENSION, ALL LICENSES AND LICENSE PRIVILEGES OF ROGELIO ORANTES ARE SUSPENDED AND PURSUANT TO CALIFORNIA HORSE RACING BOARD RULE #1528 (JURISDICTION OF STEWARDS TO SUSPEND OR FINE), ROGELIO ORANTES IS DENIED ACCESS TO PREMISES IN THIS JURISDICTION.

License Types Affected

License Number	State	License Type	Affected
No License Type Records			

Add Drug Remove Drug

Ruling Record owned by the California Horse Racing Board.
Ruling Record created on 10/5/2017 6:51:42 PM (Eastern Time) by RCI California.
Last Modified on 10/5/2017 6:51:50 PM (Eastern Time) by RCI California.

EXHIBIT M

- (l) is ineligible for employment pursuant to federal or state law because of age or citizenship; or
 - (m) has violated any of the alcohol or substance abuse provisions outlined in Sec. H of this rule.
- (2) A license suspension or revocation shall be reported in writing to the applicant and the Association of Racing Commissioners International, Inc. whereby other member racing jurisdictions shall be advised.

Q. Relationships with Inactive Persons, Prohibited

- (1) A person shall not train a horse or practice veterinary medicine for the benefit, credit, reputation, or satisfaction of an inactive person. This prohibition shall not prevent the partners in a veterinary practice from providing services to horses as long as the inactive person does not receive a pecuniary benefit from those services.
- (2) An associated person of an inactive person shall not:
 - (a) Assume the inactive person's responsibilities at a location under the jurisdiction of the commission;
 - (b) Complete an entry form for a race on behalf of or for the inactive person or an owner or customer for whom the inactive person has worked; or
 - (c) Pay or advance an entry fee for on behalf of the inactive person or owner or customer for whom the inactive person has worked.
- (3) An associated person who assumes the responsibility for the care, custody, or control of an unsuspended horse owned (fully or partially), leased, or trained by an inactive person shall not:
 - (a) Be paid a salary directly or indirectly by or on behalf of the inactive person;
 - (b) Receive a bonus or any other form of compensation in cash, property, or other remuneration or consideration from the inactive person;
 - (c) Make a payment or give remuneration or other compensation or consideration to the inactive person or associated person; or
 - (d) Train or perform veterinarian work for the inactive person or an owner or customer of the inactive person at a location under the jurisdiction of the Authority.
- (4) A person who is responsible for the care, training, or veterinarian services provided to a horse formerly under the care, training, or veterinarian services of an inactive person shall:
 - (a) Bill customers directly on his or her bill form for any services rendered at or in connection with any race meeting;
 - (b) Maintain a personal checking account totally separate from and independent of that of the inactive person to be used to pay expenses of and deposit income from an owner or client of the inactive person;
 - (c) Not use the services, directly or indirectly, of current employees of the inactive person; and
 - (d) Pay bills related to the care, training, and racing of the horse from a separate and independent checking account. Copies of the invoices for such expenses

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- (g) 30-day Records must be provided to the new trainer within 48 hours of the transfer of the horse. The trainer or his/her designee shall notify the regulatory veterinarian when the records have been provided.
 - (h) Submission of 30-day Records may be delegated to the treating veterinarian, who shall provide the report to the new trainer within 48 hours of the transfer of the horse.
 - (i) Failure of the trainer to provide the 30-day Record shall result in disciplinary action.
- (20) representing an owner in making entries and scratches and in all other matters pertaining to racing;
 - (21) horses entered as to eligibility and weight or other allowances claimed;
 - (22) ensuring the fitness of a horse to perform creditably at the distance entered;
 - (23) ensuring that his/her horses are properly shod, bandaged and equipped; and that horses with a jockey or exercise rider mounted that are racing, parading or warming up prior to racing; or jogging or exercising at any time with a type of safety reins that are approved by the commission that are originally designed and constructed to insure a secure secondary connection to the bit and reinforcement to prevent breakage.
 - (24) All horses entered to compete shall be present on association property no less than five (5) hours prior to the scheduled post time of the race for which the horse is entered to compete. Horse(s) not arriving on racing association property less than five (5) hours prior to the scheduled post time of the race on the day for which the horse is entered to compete are subject to scratch, with discretion given to stewards to consider extenuating circumstances.
 - (25) presenting his/her horse in the paddock at least 20 minutes before post time or at a time otherwise appointed before the race in which the horse is entered;
 - (26) personally attending to his/her horses in the paddock and supervising the saddling thereof, unless excused by the stewards;
 - (27) instructing the jockey to give his/her best effort during a race and that each horse shall be ridden to win;
 - (28) attending the collection of a urine or blood sample from the horse in his/her charge or delegating a licensed employee or the owner of the horse to do so; and
 - (29) notifying horse owners upon the revocation or suspension of his/her trainer's license. A trainer whose license has been suspended for more than 30 days; or license has expired or been revoked; or license application has been denied, must inform the horse owners that until the license is restored the trainer can no longer be involved with the training, care, custody or control of their horses, nor receive any compensation from them for the training, care, custody or control of their horses. Upon application by the owner, the stewards may approve the transfer of such horses to the care of another licensed trainer, and upon such approved transfer, such 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 other way from the training of the horse(s).

- (7) The recommended penalty for a violation involving a drug that carries a Category “D” penalty is a written warning to the trainer and owner. Multiple violations may result in fines and/or suspensions
- (8) Any licensee of the commission, including 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 for the licensed trainer.
- (9) The licensed owner, veterinarian or any other licensed party 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.
- (10) Any veterinarian found to be involved in the administration of any drug carrying the penalty category of “A” shall be referred to the State Licensing Board of Veterinary Medicine for consideration of further disciplinary action and/or license revocation. This is in addition to any penalties issued by the stewards or the commission.
- (11) Any person who the stewards or the commission believe may have committed acts in violation of criminal statutes may be referred to the appropriate law enforcement agency. Administrative action taken by the stewards or the 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.
- (12) Procedures shall be established to ensure that a licensed trainer is not able to benefit financially during the period for which the individual has been suspended. This includes, but is not limited to, ensuring that horses are not transferred to licensed family members.
- (13) Multiple Medication Violations (MMV)
 - (a) A trainer who receives a penalty for a medication violation based upon a horse testing positive for a Class 1-5 medication with Penalty Class A-C, as provided in the most recent version of the ARCI Uniform Classification Guidelines for Foreign Substances, or similar state regulatory guidelines, shall be assigned points as follows:

Penalty Class	Points If Controlled Therapeutic Substance	Points If Non-Controlled Substance
Class A	N/A	6
Class B	2	4
Class C	½ for first violation with an additional ½ point for each additional violation within 365 days ¹	1 for first violation with an additional ½ point for each additional violation within 365 days
Class D	0	0

¹ Points for NSAID violations only apply when the primary threshold of the NSAID is exceeded. Points are not to be separately assigned for a stacking violation.

violation, and within a 365 day period has a subsequent greater violation (e.g. a D violation followed by a C violation), the earlier violation shall count as an aggravating factor for the purposes of determining the penalty for the subsequent greater violation.

(h) Any drug or its metabolite or analogue thereof found to be present in an official test sample that is not classified in Rule 1843.2 of this division shall be classified as a Class 1 substance and a Category "A" penalty until classified by the Board.

(i) The administration of a drug substance to a race horse must be documented by the treating veterinarian through the process described in Rule 1842 of this division.

(j) Any licensee found to be responsible for the administration of any drug substance resulting in a positive test may be subject to the same penalties set forth for the licensed trainer and his presence may be required at any and all hearings relative to the case.

(1) Any veterinarian found to be involved in the administration of any drug substance resulting in a positive test in Penalty Category "A" shall be referred to the California Veterinary Medical Board (CVMB) for consideration of further disciplinary action.

(2) Any veterinarian found to be involved in the administration of any drug substance resulting in a positive test in Penalty Category "B" or "C" may be referred to the CVMB for consideration of further disciplinary action upon the recommendation of the Equine Medical Director, the board of stewards or hearing officers.

(k) A licensee who is suspended because of a medication violation is not able to benefit financially during the period of suspension. This includes, but is not limited to, ensuring that horses are not transferred to licensed family members or, for any licensee whose suspension is for more than 30 days, to any other licensee who has been an employee of the suspended licensee within the previous year.

(1) A licensee whose license is revoked because of a medication violation is not able to benefit financially following the revocation of his or her license. This includes, but is not limited to, ensuring that horses are not transferred to licensed family members or to any other licensee who has been an employee of the licensee whose license is revoked within the previous year.

(l) "Licensed family members" means any person who holds an occupational license issued by the CHRB and who is related to the suspended licensee, or the licensee whose license is revoked, by blood, or by marriage or domestic partnership, or who is related by blood to the spouse or domestic partner of such licensee.

(1) Licensed trainers suspended 60 days or more shall be banned from all inclosures under the jurisdiction of the CHRB. In addition, during the period of suspension, such trainer shall forfeit all assigned stall space and shall remove from the inclosures all signage, colors, advertisements, training-related

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71 IAC 10-2-8.1 Effect of ruling – trainers

Authority: IC 4-31-3-9

Affected: IC 4-31-13

Sec. 8.1. (a) The horse(s) of a trainer suspended for more than fifteen (15) days in Indiana shall not be transferred to a spouse, member of the immediate family, assistant, employee, or household member of the trainer.

(b) The horse(s) of a trainer suspended in another jurisdiction, may, at the discretion of the executive director, judges, or stewards, be placed on the judge's/steward's list and be ineligible to compete in Indiana if such horse(s) is trained by a licensee that is a spouse, member of the immediate family, business associate, assistant, employee, or household member of the suspended trainer.

(c) The executive director, judges, or stewards may require a horse(s) previously trained by a suspended trainer, a horse owned by a person employing a suspended trainer, and/or a horse owned by a person who employed the trainer at the time of suspension to be stabled on the grounds of the association.

(d) The above provisions of this rule shall not apply to trainers who are suspended from driving privileges only. (*Indiana Horse Racing Commission; 71 IAC 10-2-8.1; emergency rule filed Mar 20, 2007, 1:43 p.m.: 20070404-IR-071070198ERA, eff Mar 16, 2007 [IC 4-22-2-37.1 establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; filed Nov 10, 2014, 2:07 p.m.: 20141210-IR-071140230FRA*)

71 IAC 10-2-9 Appeals

Authority: IC 4-31-3-9

Affected: IC 4-31-13

Sec. 9. (a) A person who has been aggrieved or adversely affected by a ruling of the judges may appeal to the commission. A person who fails to file an appeal by the deadline and in the form required by this section waives the right to appeal the ruling.

(b) An appeal under this section must be filed not later than fifteen (15) days after the ruling is served upon the person. The appeal must be filed with the commission.

(c) An appeal must be in writing on a form prescribed by the commission. The appeal must include:

(1) the name, address, telephone number, and signature of the person making the appeal; and

(2) a statement of the basis for the appeal, identified with reasonable particularity.

(d) On notification by the commission that an appeal has been filed, the judges shall forward to the commission the record of the proceeding on which the appeal is based.

(e) If a person against whom a fine has been assessed files an appeal of the ruling that assesses the fine, payment of the fine is not due until seven (7) days after a final determination or order has been entered which supports the imposition of such a sanction.

(f) A decision by the judges regarding a disqualification involving the running of the race that does not result in a ruling is final and may not be appealed. (*Indiana Horse Racing Commission; 71 IAC 10-2-9; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1200; emergency rule filed Aug 9, 1995, 10:30 a.m.: 18 IR 3415; emergency rule filed Feb 13, 1998, 10:00 a.m.: 21 IR 2427; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2110; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Feb 21, 2003, 4:15 p.m.: 26 IR 2387; emergency rule filed Mar 20, 2007, 1:43 p.m.: 20070404-IR-071070198ERA, eff Mar 16, 2007 [IC 4-22-2-37.1 establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; emergency rule filed Jan 25, 2012, 12:20 p.m.: 20120201-IR-071120056ERA; filed Nov 10, 2014, 2:07 p.m.: 20141210-IR-071140230FRA*)

71 IAC 10-2-10 Stay

Authority: IC 4-31-3-9

Affected: IC 4-31-13

EXHIBIT N

Kentucky

230.320 Denial, revocation, or suspension of license -- Stay of imposition of stewards' decision -- Review -- Frivolous appeals.

- (1) Every license granted under this chapter is subject to denial, revocation, or suspension, and every licensee or other person participating in Kentucky horse racing may be assessed an administrative fine and required to forfeit or return a purse, by the racing commission in any case where it has reason to believe that any provision of this chapter, administrative regulation, or condition of the racing commission affecting it has not been complied with or has been broken or violated. The racing commission may deny, revoke, or suspend a license for failure by the licensee or other person participating in Kentucky horse racing to pay an administrative fine imposed upon the licensee by the stewards or the racing commission. The racing commission, in the interest of honesty and integrity of horse racing, may promulgate administrative regulations under which any license may be denied, suspended, or revoked, and under which any licensee or other person participating in Kentucky horse racing may be assessed an administrative fine or required to forfeit or return a purse.
- (2)
 - (a) Following a hearing by the stewards, a person who has been disciplined by a ruling of the stewards may apply to the racing commission for a stay of the ruling, pending action on an appeal by the racing commission.
 - (b) An application for a stay shall be received by the executive director or his designee within ten (10) calendar days of the issuance of the stewards' ruling.
 - (c) An application for a stay shall be in writing and include the following:
 1. The name, address, telephone number, and signature of the person requesting the stay;
 2. A statement of the justification for the stay; and
 3. The period of time for which the stay is requested.
 - (d) On a finding of good cause, the executive director or his designee may grant the stay. The executive director or his designee shall issue a written decision granting or denying the request for stay within five (5) calendar days from the time the application for stay is received by the executive director or his designee. If the executive director or his designee fails to timely issue a written decision, then the stay is deemed granted. The executive director or his designee may rescind a stay granted under this subsection for good cause.
 - (e) A person who is denied a stay by the executive director or his designee, or has a previously granted stay rescinded under paragraph (d) of this subsection, may petition the racing commission to overrule the executive director's or designee's denial or rescission of the stay. The petition shall be filed in writing with the chairperson of the racing commission and received by the chairperson within ten (10) calendar days of the mailing of the executive director's or designee's denial of the stay. The petition shall state the name, address, phone number, and signature of the petitioner; a statement of justification of the stay; and the time period for which the stay is requested. The chairperson shall convene a special meeting of the racing commission within ten (10) calendar

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Sec. 10. (a) A person who has been disciplined by a ruling of the judges may apply to the commission for a stay of the ruling, pending action on an appeal by the commission.

(b) An application for a stay must be filed with the commission not later than the deadline for filing an appeal.

(c) An application for a stay must be in writing and include the following:

(1) The name, address, telephone number, and signature of the person requesting the stay.

(2) A statement of the justification for the stay.

(3) The period of time for which the stay is requested.

(d) On a finding of good cause, the commission may grant the stay. The commission shall notify the person in writing of the commission's decision. The commission may rescind a stay granted under this subsection for good cause.

(e) The fact that a stay is granted is not a presumption that the ruling by the judges is invalid. (*Indiana Horse Racing Commission; 71 IAC 10-2-10; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1201; emergency rule filed Feb 13, 1998, 10:00 a.m.: 21 IR 2427; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; emergency rule filed Oct 3, 2013, 2:08 p.m.: 20131009-IR-071130452ERA; filed Nov 10, 2014, 2:07 p.m.: 20141210-IR-071140230FRA*)

Rule 3. Proceedings by the Commission

71 IAC 10-3-1 Initiation of proceedings

Authority: IC 4-31-3-9; IC 4-31-3-13

Affected: IC 4-21.5-3-22; IC 4-21.5-3-29; IC 4-31

Sec. 1. (a) A proceeding before the commission may be initiated by a person who timely files an appeal from a judge's ruling.

(b) The commission may in its discretion initiate a disciplinary action against any person under IC 4-31. Such an action may be brought upon the recommendation of the executive director, by the commission on its own motion, or by the commission for the purpose of modifying or assessing penalties or sanctions, or both, in addition to any penalties or sanctions assessed by the judges. An action under this section is to be initiated pursuant to the provisions of section 20 of this rule.

(c) The commission may institute a proceeding for the enforcement of a subpoena or summons which is issued in support of its power to investigate licensees of the commission or any suspected violation of the pari-mutuel statutes or a rule adopted by the commission.

(d) In the event that the commission initiates a proceeding under section 20 of this rule, the issues in that proceeding or on any subsequent appeal shall be limited to those raised by the commission or its designee. In no way shall the issuance of an administrative complaint act as a waiver or otherwise extend the time limits for the appeal of a ruling set forth in this article. (*Indiana Horse Racing Commission; 71 IAC 10-3-1; emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1201; emergency rule filed Jan 27, 1995, 3:30 p.m.: 18 IR 1506; errata filed Mar 23, 1995, 4:30 p.m.: 18 IR 2126; emergency rule filed Mar 25, 1996, 10:15 a.m.: 19 IR 2086; emergency rule filed Feb 12, 1998, 4:15 p.m.: 21 IR 2397; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Mar 20, 2007, 1:43 p.m.: 20070404-IR-071070198ERA, eff Mar 16, 2007 [IC 4-22-2-37.1 establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]; readopted filed Mar 23, 2007, 11:31 a.m.: 20070404-IR-071070030RFA; emergency rule filed Oct 3, 2013, 2:08 p.m.: 20131009-IR-071130452ERA; filed Nov 10, 2014, 2:07 p.m.: 20141210-IR-071140230FRA*)

71 IAC 10-3-2 Party designations

Authority: IC 4-31-3-9

Affected: IC 4-31-13

Sec. 2. (a) The staff of the commission is always a party to a proceeding before the commission. A person who is the subject of a disciplinary hearing, who filed an appeal from a judge's ruling, or who otherwise seeks relief from the commission is a party to that proceeding.

(b) A party to a proceeding has the right to present a direct case, cross examine each witness, submit legal arguments, and otherwise participate fully in the proceeding.

EXHIBIT O

Table 24: Total Negative actions issued by type

This table shows the total number of negative actions issued, by type and by year

	Calendar Year					Fiscal Year				
	2012	2013	2014	2015	2016	2012	2013	2014	2015	2016
Conditional	117	102	87	74	96	89	115	103	71	97
Denial	151	131	151	172	167	165	132	147	151	171
Fine	355	402	577	449	377	300	387	482	536	412
Revocation	204	189	206	162	181	160	217	178	200	158
Suspension	15	6	3	7	10	16	9	3	3	7
Temp Immed Suspension	122	88	102	98	101	110	115	84	104	92
Total	964	918	1126	962	932	840	975	997	1065	937

Table 25: Total Negative actions appealed by type

This table shows the total number of negative actions issued by DHS that were appealed.

	Calendar Year					Fiscal Year				
	2012	2013	2014	2015	2016	2012	2013	2014	2015	2016
Conditional	31	28	24	19	23	26	33	26	22	23
Denial	23	22	17	15	23	21	25	19	17	17
Fine	54	70	78	47	39	42	61	80	60	43
Revocation	84	75	93	70	56	55	97	76	81	63
Suspension	5	0	0	1	3	5	1	0	0	2
Temp Immed Suspension	68	50	61	65	59	64	69	53	63	61
Total	265	245	273	217	203	213	286	254	243	209

NOTE: All sanctions are appealable by requesting a contested case hearing except Conditional licenses.