

# PENNSYLVANIA BULLETIN

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## Part II

This part contains the  
State Horse Racing Commission's  
Temporary Regulations Rulemaking





# RULES AND REGULATIONS

## Title 7—AGRICULTURE

### STATE HORSE RACING COMMISSION

[ 7 PA. CODE CHS. 171, 173, 175, 177, 179, 181, 183, 185, 187, 189, 191, 193, 195, 197, 199, 201, 203, 205, 301, 303, 305, 307, 401, 403, 405 AND 407 ]

#### State Horse Racing Commission; Temporary Regulations

The State Horse Racing Commission (Commission), as established and reconfigured under authority set forth in 3 Pa.C.S. §§ 9311(a), (e) and (h)(3) and 9312 (relating to State Horse Racing Commission; and additional powers of commission) hereby adopts the following temporary regulations to facilitate the implementation of the act of October 28, 2016 (P.L. 913, No. 114) (act) (3 Pa.C.S. §§ 9301—9374 (relating to Race Horse Industry Reform Act)). These temporary regulations shall expressly supersede and replace existing regulations of the former State Horse Racing Commission and the former State Harness Racing Commission set forth in 58 Pa. Code, Parts IV and V (relating to Horse Racing Commission; and Harness Racing Commission). However, to the extent these temporary regulations do not cover or address a particular aspect of racing, the regulations in 58 Pa. Code, Parts IV and V shall control. The Commission will thereafter replace these temporary regulations with permanent regulations promulgated in accordance with the act of July 31, 1968 (P.L. 769, No. 240), known as the Commonwealth Documents Law (CDL) (45 P.S. §§ 1101—1208), the act of October 15, 1980 (P.L. 950, No. 164), known as the Commonwealth Attorneys Act (71 P.S. §§ 732-101—732-506) and the act of June 25, 1982 (P.L. 633, No. 181), known as the Regulatory Review Act (71 P.S. §§ 745.1—745.15).

These temporary regulations are necessary for the Commission to continue its statutory jurisdiction and oversight over all pari-mutuel racing and wagering activities conducted within this Commonwealth thereby carrying out its legislative mandate to enhance the integrity of the industry, protect the health, safety and welfare of the horse and participants and to protect the interests of the general betting public.

Furthermore, these temporary regulations are necessary to update and modernize the existing “rules of racing” and bring them into uniformity and consistency with surrounding racing jurisdictions in the Mid-Atlantic region. To that end, the Commission utilized, as a general regulatory template, the Model Rules of Racing adopted by the Association of Racing Commissioners International, the Rules and Regulations of the United States Trotting Association and, where appropriate, provisions of the Commission’s existing regulations at 58 Pa. Code, Parts IV and V.

#### *Explanation of Temporary Rulemaking*

The Commission’s temporary regulations will be codified in 7 Pa. Code (relating to Agriculture) as Part VIII (relating to State Horse Racing Commission). Specifically, Subpart A (relating to general provisions) contains Chapters 171—179. This subpart provides defined terms, general guidance as to the form, function and operations of the Commission, the standardbred and thoroughbred

racing offices and contains the rules of practice and procedure for administrative hearings.

Subpart B (relating to licensing) focuses primarily on the standards for licensing and the application process for those racetrack facilities conducting racing operations and for individuals engaged in their occupational racing activities within this Commonwealth. Specifically, Subpart B contains Chapters 181—189.

Subpart C (relating to pari-mutuel wagering) focuses on the general conduct, methodology and various types of pari-mutuel wagering activities offered by racetrack operators, secondary pari-mutuel organizations and racing vendors to the general public both inside and outside of this Commonwealth. Specifically, Subpart C contains Chapters 191—199.

Subpart D (relating to Standardbred Rules of Racing (Harness)) includes Chapters 201 contains general provisions; Chapter 203 contains specific licensing provisions, duties and responsibilities of Standardbred owner, trainers, drivers and other licensees; and Chapter 205 contains the rules associated with and governing the actual conduct of live harness racing.

Subpart E (relating to Thoroughbred Rules of Racing (Horse)) includes Chapter 301 contains general provisions; Chapter 303 contains specific licensing provisions, duties and responsibilities of Thoroughbred owners, trainers, jockeys and other licensees; Chapter 305 contains the rules associated with and governing the actual conduct of live Thoroughbred racing; and Chapter 307 governs the provisions relating to the Thoroughbred breeding program with the Commonwealth.

Subpart F (relating to foreign substances, medications, drugs and equine veterinary practices) pertains to the detection, confirmation and prevention of the use of illegal drugs. It also includes chapters implementing practices and procedures governing the lawful and proper use of equine medications by veterinarians and other licensed individuals to ensure the health and welfare of racehorses. Subpart F contains Chapters 401—407.

#### *Regulatory Review*

Section 9311(h) of 3 Pa.C.S. provides the Commission authority to adopt and publish temporary regulations to implement the provisions and purposes of the act.

In accordance with 3 Pa.C.S. § 9311(h)(3) (relating to temporary regulations), the Commission may adopt temporary regulations that are exempt from and not subject to sections 201—205 of the CDL (45 P.S. §§ 1201—1205), sections 204(b) and 301(10) of the Commonwealth Attorneys Act (71 P.S. §§ 732-204(b) and 732-301(10)) or the Regulatory Review Act. To facilitate the prompt implementation of the act, regulations promulgated by the Commission shall be deemed temporary regulations which shall not expire for a period of 3 years following publication.

Under 3 Pa.C.S. § 9311(h)(4) of the act, the Commission’s authority to promulgate these and other temporary regulations will expire 3 years after the effective date of the act.

While this rulemaking will be effective upon publication, the Commission invites interested persons to submit written comments regarding the temporary regulations to Jorge M. Augusto, Assistant Counsel, Department of

Agriculture, Room 201, 2301 North Cameron Street, Harrisburg, PA 17110, (717) 787-8744.

### Findings

The Commission finds that:

(1) Under 3 Pa.C.S. § 9311(h) of the act, the temporary regulations are exempt from the requirements of the Regulatory Review Act and sections 201–205 of the CDL.

(2) The adoption of the temporary regulations provided by this order is necessary and appropriate for the administration of the authorizing statute.

### Order

The Commission, acting under the authorizing statute, orders that:

(a) The Commission by order issued at its September 24, 2019, Commission meeting, acting under the authority of the act, approves and adopts these temporary regulations as set forth in Annex A. These temporary regulations govern the general administrative practice and procedure before the Commission and specific provisions relating to Commission operations, licensing, medication/drug enforcement, pari-mutuel wagering and applicable rules of racing for the Standardbred and Thoroughbred breeds.

(b) The following temporary regulations of the Commission are adopted at 7 Pa. Code, Part VIII: Chapters 171, 173, 175, 177, 179, 181, 183, 185, 187, 189, 191, 193, 195, 197, 199, 201, 203, 205, 301, 303, 305, 307, 401, 403, 405 and 407 by adding §§ 171.1–171.5, 173.1–173.12, 175.1–175.8, 177.1–177.8, 179.1–179.18, 179.21–179.43, 179.51–179.73, 179.91–179.98, 179.101–179.106, 181.1–181.19, 181.21, 181.31–181.41, 181.51–181.62, 181.71–181.78, 183.1–183.9, 185.1–185.20, 187.1–187.9, 189.1–189.3, 189.11–189.17, 189.21–189.24, 189.31–189.36, 191.1, 191.2, 193.1–193.15, 195.1–195.4, 197.1–197.4, 199.1–199.10, 201.1–201.4, 203.1–203.5, 203.11–203.17, 203.21–203.32, 203.51, 203.52, 203.71–203.75, 203.91, 203.101, 203.102, 203.111–203.113, 205.1–205.9, 205.21–205.26, 205.31–205.37, 205.51–205.63, 205.71, 205.91, 205.101, 205.111–205.113, 205.121–205.124, 205.131, 205.151, 205.171–205.173, 205.191, 205.201–205.205, 205.211–205.218, 205.221–205.231, 205.251, 205.252, 205.271–205.287, 205.301–205.305, 205.311–205.332, 205.351, 205.371–205.389, 205.401–205.422, 205.431–205.436, 205.451–205.464, 205.471, 205.501–205.510, 301.1, 301.2, 303.1–303.22, 303.31–303.38, 303.51–303.53, 303.71–303.73, 305.1–305.4, 305.11–305.18, 305.31–305.36, 305.51–305.63, 305.71–305.74, 305.91, 305.101, 305.111, 305.121, 305.131–305.135, 305.151, 305.152, 305.171, 305.191–305.193, 305.201–305.203, 305.221, 305.222, 305.231–305.243, 305.251–305.257, 305.271–305.299, 305.301–305.303, 305.401–305.412, 307.1–307.6, 401.1–401.6, 401.11–401.17, 401.21–401.29, 401.41–401.47, 401.51–401.53, 401.61, 401.62, 403.1–403.18, 405.1–405.9 and 407.1–407.8 as set forth in Annex A.

(c) These temporary regulations are effective upon publication in the *Pennsylvania Bulletin*.

(d) These temporary regulations shall be posted in their entirety on the Department of Agriculture, State Horse Racing Commission web site.

(e) These temporary regulations shall be subject to amendment as deemed necessary by the Commission in accordance with the purpose of the act and to further the intent and administration of the act.

(f) The Chairperson of the Commission shall certify the preceding order and deposit these temporary regulations with the Legislative Reference Bureau as required by law.

RUSSELL C. REDDING,  
Chairperson

*Pennsylvania State Horse Racing Commission*

**Fiscal Note:** 127-1. No fiscal impact; (8) recommends adoption.

## Annex A

### TITLE 7. AGRICULTURE

#### PART VIII. STATE HORSE RACING COMMISSION

##### Subpart

- A. GENERAL PROVISIONS
- B. LICENSING
- C. PARI-MUTUEL WAGERING
- D. STANDARDBRED RULES OF RACING (HARNESS)
- E. THOROUGHBRED RULES OF RACING (HORSE)
- F. FOREIGN SUBSTANCES, MEDICATIONS, DRUGS AND EQUINE VETERINARY PRACTICES

##### Subpart A. GENERAL PROVISIONS

##### Chap.

- 171. PRELIMINARY PROVISIONS—TEMPORARY REGULATIONS
- 173. COMMISSION OPERATIONS AND ORGANIZATION—TEMPORARY REGULATIONS
- 175. BUREAU OF STANDARDBRED HORSE RACING—TEMPORARY REGULATIONS
- 177. BUREAU OF THOROUGHBRED HORSE RACING—TEMPORARY REGULATIONS
- 179. RULES OF ADMINISTRATIVE PRACTICE AND PROCEDURE—TEMPORARY REGULATIONS

#### CHAPTER 171. PRELIMINARY PROVISIONS—TEMPORARY REGULATIONS

##### Sec.

- 171.1. Purpose.
- 171.2. Construction of the regulations.
- 171.3. Jurisdiction.
- 171.4. General powers of the Commission.
- 171.5. General definitions.

##### § 171.1. Purpose.

The purpose of this part is to facilitate the implementation of the Race Horse Industry Reform Act (act of October 28, 2016) (P.L. 913, No. 114), 3 Pa.C.S. §§ 9301–9374 (relating to race horse industry reform).

##### § 171.2. Construction of the regulations.

(a) The Commission's regulations shall be liberally construed to secure the just, speedy and efficient determination of every action, proceeding or issue presented to which it is applicable. The Commission or its presiding officer at any stage of an action or proceeding may disregard an error or defect of procedure which does not affect the substantive rights of a party.

(b) The Commission or its presiding officer at any stage of an action or proceeding may waive or temporarily suspend a requirement of this part when necessary or appropriate, if the waiver or temporary suspension does not adversely affect a substantive right of a party.

(c) These liberal construction provisions apply with particularity in proceedings involving pro se litigants.

(d) Section (a) supersedes 1 Pa. Code § 31.2 (relating to liberal construction).

##### § 171.3. Jurisdiction.

(a) The General Assembly has declared that the Commission has exclusive jurisdiction and regulatory authority over all racing related matters within the scope of its powers under the Race Horse Industry Reform Act (act of October 28, 2016) (P.L. 913, No. 114), 3 Pa.C.S. §§ 9301–9374 (relating to race horse industry reform).

(b) The sport of horse racing, including pari-mutuel wagering and racing activities is heavily regulated and nothing contained in this part shall be construed to limit the powers, authority and duties of the Commission as provided in the act.

**§ 171.4. General powers of the Commission.**

(a) Under the Race Horse Industry Reform Act (act) (act of October 28, 2016) (P.L. 913, No. 114), 3 Pa.C.S. §§ 9301—9374 (relating to race horse industry reform), the Commission will have the power to supervise all horse race meetings in this Commonwealth at which pari-mutuel wagering and racing activities are conducted. The Commission shall have the power to enact appropriate rules and regulations necessary to effectuate the purposes and provisions of the act and to prevent circumvention or evasion thereof.

(b) The rules of racing, as set forth in this part apply to all persons, whether licensed or not, who conduct horse race meetings, operate pari-mutuel wagering systems within this Commonwealth, conduct business operations associated with horse racing and breeding or who otherwise engage directly or indirectly in pari-mutuel wagering and racing activities within this Commonwealth. All persons shall be charged with knowledge of and be conclusively bound by the provisions hereof.

(c) The rules of racing shall also apply to every participant in or patron of a licensed horse meeting and each shall be charged with notice of and be conclusively bound by the provisions of these regulations.

(d) Each license issued by the Commission is specifically granted upon the condition that the licensee shall accept, observe and obey the rules and regulations of the Commission. All licensees are charged with the responsibility of reporting apparent violations of these rules to the Commission and cooperating in an investigation into the same.

(e) The Commission or its designee may rescind or modify a penalty or decision regarding an infraction of the rules imposed or issued by the Board of Judges or the Board of Stewards and may institute investigative or adjudicative proceedings on the Commission's own motion to properly exercise and discharge its statutory responsibilities.

**§ 171.5. General definitions.**

(a) The following words and phrases, when used in this part, shall have the following meanings given to them, unless the context clearly indicates otherwise:

*Account*—An account for account wagering with a specific identifiable record of deposits, wagers and withdrawals established by an account holder and managed by the licensed racing entity or secondary pari-mutuel organization.

*Account holder*—An individual who successfully completed an application and for whom the licensed racing entity or the secondary pari-mutuel organization has opened an account.

*Act*—The Race Horse Industry Reform Act (act of October 28, 2016) (P.L. 913, No. 114), 3 Pa.C.S. §§ 9301—9374 (relating to race horse industry reform).

*Advance deposit account wagering system*—A system by which wagers are debited and payouts are credited to an advance deposit account held by a licensed racing entity or secondary pari-mutuel organization on behalf of a person.

*Advance deposit wagering—ADW*—A form of gambling on the outcome of horse races in which bettors must fund their account before being allowed to place bets. ADW may be conducted outline or by phone.

*Appeal*—A request for the Commission or its designee to investigate, consider and review any decisions or rulings of the Board of Stewards or Board of Judges, Bureau Directors or other Commission staff.

*Applicant*—A person who, on his own behalf or on behalf of another, applies for permission to engage in an act or activity which is regulated under the provisions of this part. If the applicant is a person other than an individual, the Commission shall determine the associated persons whose qualifications are necessary as a precondition to the licensing of the applicant.

*Arrest*—Detaining, holding or taking into custody by police or other law enforcement authorities for the alleged commission of an offense.

*Authorized agent*—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.

*Backside area*—An area of the racetrack enclosure that is not generally accessible to the public and which includes, but is not limited to, a facility commonly referred to as a barn, paddock enclosure, track kitchen, recreation hall, backside employee quarters and training track and roadways providing access to the area. The term does not include an area of the racetrack enclosure which is generally accessible to the public, including the various buildings commonly referred to as the grandstand or the racing surface and walking ring.

*Breakage*—The odd cents of redistributions to be made on contributions to pari-mutuel pools exceeding a sum equal to the next lowest multiple of ten.

*Bureau Director*—The Director of the Bureau of Standardbred Horse Racing and the Director of the Bureau of Thoroughbred Horse Racing.

*Carryover*—The non-distributed pool moneys which are retained and added to a corresponding pool in accordance with these rules.

*Clean letter of credit*—A letter of credit which is available to the beneficiary against presentation of a draft or receipt.

*Commission*—The State Horse Racing Commission.

*Commission staff*—Employees of the Commission, under the direct supervision of Bureau Directors, who perform various administrative, licensing, enforcement and investigative duties and functions. This term may include licensing staff, investigative staff or enforcement staff.

*Commissioner*—An individual appointed to and sworn in as a member of the Commission in accordance with section 9311(b) of the act, 3 Pa.C.S. § 9311(b) (relating to State Horse Racing Commission).

*Confidential information*—Materials that are not available to the public.

*Contest*—A competitive racing event on which pari-mutuel wagering is conducted.

*Controlled substance*—Any substance included in the five classification schedules under section 811 of the Controlled Substance Act of 1970 (21 U.S.C.A. § 811).



*Conviction*—A finding of guilt or a plea of guilty or nolo contendere, whether or not a judgment of sentence has been imposed as determined by the law of the jurisdiction in which the prosecution was held. The term does not include a conviction that has been expunged or overturned or for which an individual has been pardoned or an order of accelerated rehabilitative disposition.

*Department*—The Department of Agriculture.

*Ejection or refusal of admission*—The ejection or refusal of admission by a licensed racing entity or the Commission from the racetrack enclosure or any other area under the jurisdiction of the Commission.

*Electronic wagering*—A method of placing or transmitting a legal wager by an individual in this Commonwealth through telephone, electromechanical, computerized system or any other form of electronic media approved by the Commission and accepted by a secondary pari-mutuel organization or a licensed racing entity or the licensed racing entity's approved off-track betting system located in this Commonwealth.

*Evergreen clause*—A term in a letter of credit providing for automatic renewal of the letter of credit.

*Ex parte communication*—An off-the-record communication engaged in or received by a Commissioner of the Commission regarding the merits of, or any fact in issue relating to, a pending matter before the Commission or which may reasonably be expected to come before the Commission in a contested on-the-record proceeding. The term shall not include:

(1) An off-the-record communication by a Commissioner, the Department of Revenue, Pennsylvania State Police, Attorney General or other law enforcement official, prior to the beginning of the proceeding solely for the purpose of seeking clarification or correction to evidentiary materials intended for use in the proceedings.

(2) A communication between the Commission or a Commissioner and legal counsel.

*Exhibition race*—A race on which no wagering is permitted or conducted.

*Felony*—An offense under the laws of the Commonwealth or the laws of another jurisdiction, punishable by imprisonment for more than 5 years.

*Final order*—One of the following:

(1) An action by the Commission which approves, issues, renews, revokes, suspends, conditions, or denies issuance or renewal of a license.

(2) An action by the Commission which affects personal or property rights, privileges, immunities, duties, liabilities or obligations and disposes of all proper claims by or against parties before the Commission.

(3) An action by the Commission which is designated by the Commission as final.

*Financial interest*—An ownership, property, leasehold or other beneficial interest in an entity. The term shall not include an interest which is held or deemed to be held in any of the following:

(1) Securities that are held in a pension plan, profit-sharing plan, individual retirement account, tax-sheltered annuity, a plan established under section 457 of the Internal Revenue Code of 1986 (Pub.L. No. 99-514) (26 U.S.C.A. § 457), or any successor provision, deferred compensation plan whether qualified or not qualified under the Internal Revenue Code of 1986, or any successor provision or other retirement plan that:

(i) Is not self-directed by the individual.

(ii) Is advised by an independent investment adviser who has sole authority to make investment decisions with respect to contributions made by the individual to these plans.

(2) A tuition account plan organized and operated under section 529 of the Internal Revenue Code of 1986 (Pub.L. No. 99-514) (26 U.S.C.A. § 529) that is not self-directed by the individual.

(3) A mutual fund where the interest owned by the mutual fund in a licensed racing entity does not constitute a controlling interest as defined in 4 Pa.C.S. § 1103 (relating to definitions).

*Forfeit*—A specified amount of money due from a licensee because of error, fault, neglect of duty, breach of contract or a penalty imposed by the Board of Judges or the Board of Stewards or the Commission.

*Horse race meeting*—A specified period and dates each year during which a licensed racing entity is authorized to conduct live racing or pari-mutuel wagering as approved by the Commission.

*Horse racing*—Standardbred horse racing and thoroughbred horse racing.

*Horsemen's organization*—A trade association which represents the majority of owners and trainers who own and race horses at a racetrack.

*Immediate family*—A spouse, parent, brother, sister or child.

*Irrevocable clean letter of credit*—A clean letter of credit which cannot be canceled or amended unless there is an agreement to cancel or amend among all parties to the letter of credit.

*Judges or Stewards*—Shall refer to the Board of Judges for the Standardbred racing industry or Board of Stewards for the Thoroughbred racing industry respectively.

*Land mile*—A unit of distance equal to 1,609.3 meters or 5,280 feet, as measured in a straight line.

*Licensed racetrack or racetrack*—

(1) The physical facility and grounds for which a person has obtained a license from the Commission to conduct live thoroughbred or standardbred race meetings with pari-mutuel wagering or

(2) The physical land-based location at which live horse racing is conducted, even if not owned by the person.

*Licensed racing entity*—Any person that has obtained a license to conduct live thoroughbred or harness horse race meetings with pari-mutuel wagering from the Commission.

*Licensee*—The holder of a license issued under this part.

*Nominal change in ownership*—The sale, pledge, encumbrance, execution of an option agreement or other transfer of less than 5% of the equity securities or other ownership interest of a person whose percentage ownership does not affect the decisions of the licensed racing entity.

*Nonprimary location*—Any facility in which pari-mutuel wagering is conducted by a licensed racing entity under this part other than the racetrack where live racing is conducted. Also known as an off-track wagering location.

*On-the-record proceedings*—A matter that comes before the Commission or its presiding officer by way of applica-

tion, complaint, petition, appeal, decision or other proceeding for which a formal record is created and upon which the Commission bases its order and adjudication.

*Ownership interest*—Owning or holding, or being deemed to hold, debt or equity securities or other ownership interest or profit interest.

*Pari-mutuel wagering*—A form of wagering, including manual, electronic, computerized and other forms as approved by the Commission, on the outcome of a horse racing event in which all wagers are pooled and held by a licensed racing entity or secondary pari-mutuel organization for distribution of the total amount, less the deductions authorized by law, to holders of winning tickets.

*Person*—Any natural person, corporation, foundation, organization, business trust, estate, limited liability company, license corporation, trust, partnership, limited liability partnership, association or any other form of legal business entity.

*Primary market area of a racetrack*—The land area included in a circle drawn with the racetrack as the center and a radius of 35 land miles.

*Principal*—Any of the following individuals associated with a partnership, trust association, limited liability company or corporation:

- (1) The chairman and each member of the board of directors of a corporation.
- (2) Each partner of a partnership and each participating member of a limited liability company.
- (3) Each trustee and trust beneficiary of an association.
- (4) The president or chief executive officer and each other officer, manager and employee who has policy-making or fiduciary responsibility within the organization.
- (5) Each stockholder or other individual who owns, holds or controls, either directly or indirectly, 5% or more of stock or financial interest in the collective organization.
- (6) Any employee, agent, guardian, personal representative, lender or holder of indebtedness who has the power to exercise a significant influence over the applicant's or licensee's operation.

*Racetrack enclosure*—With respect to each licensed racing entity, shall be deemed to include at least one primary racetrack location at which horse race meetings authorized to be conducted, including the grandstand, frontside and backside facilities and all primary, non-primary, contiguous and noncontiguous locations of the licensed racing entity which are specifically approved by the Commission for conducting the pari-mutuel system of wagering on the results of horse racing held at the meetings or race meetings conducted by another licensed racing entity or transmitted to these locations by simulcasting.

*Racing vendor*—A person who provides goods or services to a licensed racing entity or other licensed racing entity directly related to racing or the racing product, as determined by the Commission.

*Secondary market area of a racetrack*—The land area included in a circle drawn with the racetrack as the center and a radius of 50 land miles, not including the primary market area of the racetrack.

*Secondary pari-mutuel organization—SPMO*—A licensed entity, other than a licensed racing entity, that offers and accepts pari-mutuel wagers. A person or entity that provides to a licensed racing entity hardware, soft-

ware, equipment, content or services used to manage, conduct, operate or record pari-mutuel wagering activity by or from residents of this Commonwealth shall not be deemed to be a secondary pari-mutuel organization solely by virtue of the provision of the assets or services.

*Simulcast*—Live video and audio transmission of a race and pari-mutuel information for the purpose of pari-mutuel wagering at locations other than the racetrack where the race is run.

*Standardbred horse racing or harness racing*—A form of horse racing in which the horses participating are attached "in harness" to a sulky or other similar vehicle and race at a specific gait, either a trot or pace.

*Substantial change in ownership*—The sale, pledge, encumbrance, execution of an option agreement or another transfer of 5% or more of the equity securities or other ownership interest of a person whose percentage ownership affects the decisions of the licensed racing entity.

*Thoroughbred horse racing*—The form of horse racing in which each participating horse is mounted by a jockey, is duly registered with The Jockey Club of New York and engages in horse racing on the flat, which may include a steeplechase or hurdle race.

*Totalisator*—A computer system used to pool wagers, record sales, calculate payoffs and display wagering data on a display device that is located at a pari-mutuel facility or nonprimary location.

**CHAPTER 173. COMMISSION OPERATIONS AND ORGANIZATION—TEMPORARY REGULATIONS**

Sec.	
173.1.	Establishment of the Commission.
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**§ 173.1. Establishment of the Commission.**

(a) Under section 9311 of the act (relating to State Horse Racing Commission), the Commission is established as a Commission within the Department to independently regulate the operations of horse racing, the conduct of pari-mutuel wagering and the promotion and marketing of horse racing in this Commonwealth. The Commission shall consist of nine Commissioners appointed under in accordance with section 9311(b) of the act.

(b) *Term of office.* A Commissioner's term of office shall be governed by the provisions of the act.

(c) *Chairperson.* The Governor shall appoint the Chairperson of the Commission.

**§ 173.2. Meetings.**

(a) *Public sessions.* The Commission's public meetings shall take place at a location designated by the Chairperson and approved by the Commission and shall be conducted in accordance with 65 Pa.C.S. Chapter 7 (relating to Sunshine Act).

(b) *Regularly scheduled meetings.* The Commission shall meet at least once a month and at other times as the Chairperson deems necessary. Meetings may be cancelled with appropriate public notice.

(c) *Participation by means of telephone or video teleconference.* A Commissioner may participate in a meeting by means of telephone or video teleconference when it is impractical for the Commissioner to attend the meeting in person.

(d) *Record of proceedings.* The Commission shall cause to be made and shall keep the minutes of the public meetings of the Commission. The Commission shall also make a verbatim transcript of those proceedings which will be the property of the Commission and will be retained for a period to be determined by the Commission in its records retention policy. Copies of verbatim transcript may be obtained directly from the court reporting service.

### § 173.3. Participation at meetings and voting.

(a) *Majority vote.* Except as provided in subsection (b), an action by the Commission to suspend, revoke, or to refuse to renew any license previously issued by the Commission or its staff, to impose a fine or penalty for violation of the rules of racing or to take any other administrative action as deemed necessary and appropriate by the Commission will require a majority vote of all the Commissioners.

(b) *Qualified majority vote.*

(1) *Thoroughbred matters.* A qualified majority vote consisting of the two Commissioners appointed under section 9311(b)(1)(i) and (ii) of the act (relating to State Horse Racing Commission) and as many votes of the remaining voting Commissioners as necessary to constitute a majority of those Commissioners voting shall be required to:

(i) Approve, issue, deny or condition a license to conduct thoroughbred horse race meetings under section 9318 of the act (relating to licenses for horse race meetings).

(ii) Adopt regulations governing thoroughbred horse race meetings under this section.

(iii) Employ a director of the Bureau of Thoroughbred Horse Racing under section 9311(d)(2) of the act.

(2) *Standardbred matters.* A qualified majority vote consisting of the two Commissioners appointed under section 9311(b)(1)(iii) and (iv) of the act and as many votes of the remaining voting Commissioners as necessary to constitute a majority of those Commissioners voting shall be required to:

(i) Approve, issue, deny or condition a license to conduct standardbred horse race meetings under section 9318 of the act.

(ii) Adopt rules and regulations governing standardbred horse race meetings under this section.

(iii) Employ a director of the Bureau of Standardbred Horse Racing under section 9311(d)(2) of the act.

(3) Commissioners appointed under section 9311(b)(1)(i) and (ii) of the act shall be disqualified and must abstain from voting on any Standardbred matter under paragraph (2).

(4) Commissioners appointed under section 9311(b)(1)(iii) and (iv) of the act shall be disqualified and must abstain from voting on any Thoroughbred matter under paragraph (1).

(c) *Participation.* A Commissioner may not participate in a hearing, proceeding or other matter in which the Commissioner or the immediate family thereof, has a financial interest in the subject matter of the hearing or

proceeding or other interest that could be substantially affected by the outcome of the hearing or proceeding, without first fully disclosing the nature of the interest to the Commission and other persons participating in the hearing or proceeding.

(d) *Disqualifying interest.* If a Commissioner has a disqualifying interest in a voting matter, the Commissioner shall disclose the nature of the disqualifying interest, disqualify himself or herself and abstain from voting in a proceeding in which the Commissioner's objectivity, impartiality, integrity or independence of judgment may be reasonably questioned, including instances where the Commissioner knows that the Commissioner possesses a substantial financial interest in the subject matter of the proceeding or an interest that could be substantially affected by the outcome of the proceeding.

(e) *Commissioner abstention.* When disqualified, the Commissioner's abstention from voting will apply only to the singular voting matter that led to the disqualification and not apply to other matters under consideration by the Commission for which the Commissioner is otherwise qualified.

### § 173.4. Delegation of powers.

(a) The Commission may, by simple majority vote and consistent with the act and this part, delegate its authority to perform any of its administrative or adjudicatory functions to a Commissioner, a bureau director, a presiding officer or any other member of the Commission's staff.

(b) A delegation of Commission authority may be effectuated by promulgation of a regulation or the adoption of an order or a resolution at a public meeting of the Commission. The regulation, order or resolution will specify:

(1) The specific authority delegated.

(2) The Commissioner, bureau director or Commission staff member to whom the authority is delegated.

(3) Limitations or conditions imposed on the authority delegated.

(c) Delegations of authority made under this section will remain in effect indefinitely unless otherwise specified in the implementing regulation, order or resolution.

(d) A delegation of authority adopted by the Commission may be modified or rescinded by the Commission through promulgation of a regulation or the adoption of a subsequent order or resolution at a public meeting of the Commission by a simple majority vote.

### § 173.5. Commission docket.

(a) *Administrative Docket.* The Commission shall designate an Administrative Clerk who shall:

(1) Maintain a complete docket of administrative orders, resolutions or directives issued by the Commission.

(2) Maintain all formal records, documents, annual reports and record of meetings proceedings, including verbatim transcripts of the Commission's public meetings as specifically set forth in section 9311 of the act and § 173.2 (relating to meetings).

(b) *Public Records.* By October 1 of each year, the Commission shall post on its internet web site a final report of all the itemized expenses, for the preceding fiscal year, of employees and Commissioners that were or are to be reimbursed from the State Racing Fund. The list shall identify the nature of the expense, the employee, member or the agency and employee of the agency to



which an expense is attributable. Information posted on the internet web site under this subsection shall be considered financial records for the purposes of and subject to redaction under the Right-to-Know Law (65 P.S. §§ 67.101—67.3104).

(1) A request for access to public information will be addressed in accordance with the Right-to-Know Law and in coordination with the Department's Right to Know Officer.

(2) Nonconfidential information in formal records will be available for inspection during normal Commission business hours at the Commission's executive offices.

(c) *Records Retention Policy.* The Commission may adopt a records retention policy consistent with the record retention policies of the Commonwealth, the Department or the Commission may establish and publish its own retention policy in the *Pennsylvania Bulletin*.

**§ 173.6. Commission office hours.**

The Commission office will be open from 8 a.m. to 4 p.m. on business days except Saturdays, Sundays, legal holidays and Commonwealth office closures declared by the Governor, unless otherwise directed by the Commission.

**§ 173.7. Contact information and public information.**

Requests for Commission information, documents and administrative matters may be directed to:

Administrative Clerk  
 State Horse Racing Commission  
 Department of Agriculture Building  
 Executive Offices—Room 301  
 2301 North Cameron Street  
 Harrisburg, PA 17110  
 (717) 787-5196  
 horseracing@pa.gov

**§ 173.8. Confidential information.**

Under section 9311(g)(1) of act (relating to State Horse Racing Commission), the following documents and records are designated as confidential.

(1) Information submitted by an applicant or licensee relating to applications, renewals or both, to conduct horse race meetings under sections 9318, 9323 and 9353 of the act (relating to licenses for horse race meetings; occupational licenses for individuals; and license application procedures), including but not limited to electronic wagering applications/petitions, SPMO, Racing Vendor, totalisator applications or any other application or petition designated by the Commission and other information obtained by the Commission as part of a background or other investigation from any source shall be confidential and withheld from public disclosure:

(i) All information relating to character, honesty and integrity, including family, habits, reputation, history of criminal activity, business activities, financial affairs and business, professional and personal associations submitted under sections 9318, 9323 or 9353 of the act or otherwise obtained by the Commission.

(ii) Nonpublic personal information, including home addresses, telephone numbers and other personal contact information, Social Security numbers, educational records, memberships, medical records, tax returns and declarations, actual or proposed compensation, financial account records, creditworthiness or financial condition relating to an applicant, licensee or permittee or the immediate family thereof.

(iii) Information relating to proprietary information, trade secrets, patents or exclusive licenses, architectural and engineering plans and information relating to competitive marketing materials and strategies, which may include customer-identifying information or customer prospects for services subject to competition.

(iv) Security information, including risk prevention plans, detection and countermeasures, location of count rooms, emergency management plans, security and surveillance plans, equipment and usage protocols and theft and fraud prevention plans and countermeasures.

(v) Information with respect to which there is a reasonable possibility that public release or inspection of the information would constitute an unwarranted invasion into personal privacy of any individual as determined by the Commission.

(vi) Records of an applicant or licensee not required to be filed with the Securities and Exchange Commission by issuers that either have securities registered under section 12 of the Securities Exchange Act of 1934 (48 Stat. 881, 15 U.S.C. § 78l) or are required to file reports under section 15(d) of the Securities Exchange Act of 1934 (48 Stat. 881, 15 U.S.C. § 780).

(vii) Records considered nonpublic matters or information by the Securities and Exchange Commission as provided by 17 CFR 200.80 (relating to Securities and Exchange Commission records and information).

(viii) Financial information or records submitted by the applicant or licensee.

(2) No claim of confidentiality shall be made regarding any criminal history record information that is available to the public under 18 Pa.C.S. § 9121(b) (relating to general regulations).

(3) No claim of confidentiality shall be made regarding any record in possession of the Commission that is otherwise publicly available from a Commonwealth agency, local agency or another jurisdiction.

(4) The information made confidential under this section shall be withheld from public disclosure in whole or in part, except that any confidential information may be released upon the order of a court of competent jurisdiction or, with the approval of the Attorney General, to a duly authorized law enforcement agency or shall be released to the public, in whole or in part, to the extent that the release is requested by an applicant or licensee and does not otherwise contain confidential information about another person.

(5) The Commission may seek a voluntary waiver of confidentiality from an applicant or licensee but may not require any applicant or licensee to waive any confidentiality provided for in this subsection as a condition for the approval of an application, renewal of a license or any other action of the Commission.

(6) No current or former member and no current or former employee, agent or independent contractor of the Commission, who has obtained confidential information in the performance of duties under the act shall intentionally and publicly disclose the information to any person, knowing that the information being disclosed is confidential under this policy, unless the person is authorized by law to receive it.

**§ 173.9. Annual report.**

The Commission, through the Department, shall issue its annual report in accordance with the provisions of the act. Copies of the annual report shall be posted on the

Commission's web site or available for public inspection during normal office hours at the Commission's executive offices.

**§ 173.10. Mechanical and electronic records.**

The Commission may prohibit the use of mechanical and electronic recording or video recording devices at its public meetings if the use of the devices will disrupt or otherwise interfere with the orderly conduct of the proceedings.

**§ 173.11. Adoption of National standards.**

Under section 9312(6) of the act (relating to additional powers of commission), the Commission may adopt by order and publication in the *Pennsylvania Bulletin*, National, State or regional standards from other racing jurisdictions or the Association of Racing Commissioners International, the USTA or similar Commission-approved trade organizations to establish:

- (1) Uniform drug threshold levels.
- (2) Consistent sanctions for drug testing violations.
- (3) A system to monitor advanced deposit wagering and online pari-mutuel wagering company activities.

**§ 173.12. Reporting violations to the Commission.**

A person licensed by the Commission and properly brought before it, in the course of an investigative, adjudicative or rulemaking proceeding, who may be in possession of information regarding a solicitation, an attempt or a completed act violating the rules of racing, shall promptly report the information to the applicable Board of Stewards, Board of Judges or the Commission. Failure to report the information may result in the imposition of disciplinary action by the Commission.

**CHAPTER 175. BUREAU OF STANDARDBRED HORSE RACING—TEMPORARY REGULATIONS**

Sec.	
175.1.	Director of the Bureau of Standardbred Horse Racing.
175.2.	Authority of the Bureau Director.
175.3.	Powers and duties of the Bureau Director.
175.4.	Subpoena powers.
175.5.	Date of filing appeals.
175.6.	Contents of petition for stay.
175.7.	Circumstances affecting grant or denial.
175.8.	Waiver of hearings.

**§ 175.1. Director of the Bureau of Standardbred Horse Racing.**

The Commission shall assign the Bureau Director duties and responsibilities as required to fulfill the Commission's statutory obligations under the act specifically related to the Standardbred industry. The Commission may, by order, delegate certain duties and responsibilities to the Bureau Director as the Commission determines necessary to discharge the day-to-day licensing, enforcement and administrative operations of the Commission.

**§ 175.2. Authority of the Bureau Director.**

(a) The Bureau Director shall have authority to enter and issue the orders of the Commission and to certify copies of papers and documents which are part of the files or records of the Commission.

(b) The Bureau Director, in addition to the powers set forth in this part, shall be responsible for the efficient and orderly discharge of administrative matters including the keeping of Commission records, annual reports, minutes of Commission meetings and the keeping of the dockets, files and other records of the Commission.

**§ 175.3. Powers and duties of the Bureau Director.**

(a) The Bureau Director shall have the following powers and duties:

(1) Evaluate, review and issue all applicants and applications for a Standardbred horse racing license in accordance with the standards set forth in the act. The Bureau Director shall be prohibited from disclosing any portion of an investigation or evaluation of an applicant to a Commissioner prior to the decision relating to the applicant's suitability for licensure if that determination is to be rendered by the Commission.

(2) Inspect and monitor licensees and other persons regulated under this part for noncriminal violations, including potential violations of racing referred to the Bureau Director and the bureau by the Commission or any other person.

(3) Monitor horse racing operations and racing activities by all licensees to ensure compliance with the act and these regulations.

(4) Inspect, review, examine and investigate licensees, including the physical spaces and facilities in which licensees engage in racing activities, including stalls, barns, administrative offices, front-side, and back-side areas of the licensed racing facility and racetrack enclosure.

(i) The Bureau Director's powers and duties may include the review and reproduction of any document or record.

(ii) Examinations may include the review of accounting, administrative and financial records, management control systems, procedures and other records.

(5) Refer possible criminal violations to law enforcement entities.

(6) Cooperate in the investigation and prosecution of any criminal violation by criminal law enforcement entities.

(7) Begin any racing related investigation as deemed necessary and appropriate under the general jurisdiction of the Commission.

(8) Implement, with the approval of the Commission and publication in the *Pennsylvania Bulletin*, a complete racing penalty matrix to be utilized by the Bureau Director, the Board of Judges or the Commission for violations of the rules of racing and administrative regulations.

(b) Upon the Bureau Director's own motion or upon written request of a licensee, the Bureau Director may review, for consistency and appropriateness, any administrative penalty issued by the Board of Judges. Based upon the Bureau Director's review and analysis of the underlying matter, the Bureau Director may enforce the consistency of penalties imposed by the Board of Judges, up to and including, the dismissal of the underlying ruling, or increasing or decreasing the imposed penalty.

**§ 175.4. Subpoena powers.**

Under section 9311(d)(3) of the act (relating to State Horse Racing Commission), the Bureau Director or designee, shall have the authority to issue administrative or documentary subpoenas to compel the attendance of witnesses and production of all relevant and material reports, books, papers, documents, correspondence and other evidence related to regulation and enforcement of horse racing matters under the act and these regulations. The procedures for the issuance and enforcement of subpoena powers are governed by Chapter 179 (relating to Rules of Administrative Practice and Procedure—temporary regulations).

**§ 175.5. Date of filing appeals.**

Appeals from the actions or rulings of the Board of Judges shall be prepared and filed with the Bureau Director in accordance the provisions set forth in §§ 179.3 and 179.7 (relating to filings and appeals; and request for hearing by applicant or licensee). The date of filing of an appeal requesting a hearing shall be the date the written petition or request was physically received and date-stamped in the Executive Offices of the Commission.

**§ 175.6. Contents of petition for stay.**

(a) In addition to the provisions of § 179.7 (relating to request for hearing by applicant or licensee), a party seeking a stay of an underlying ruling or determination by the Board of Judges or other Commission staff shall comply with the following:

(1) A petition for a stay must be in writing, contain numbered paragraphs and must plead facts with particularity and be supported by affidavits and specific evidence of those facts.

(2) A petition for stay must state with particularity the citations of legal authority the petitioner believes form the basis for the grant of a stay.

(b) A petition for stay may be summarily denied by the Bureau Director for failure to comply with the following reasons:

(1) Lack of particularity of the facts pleaded.

(2) Lack of particularity or inapplicability of the legal authority cited as the basis for the grant of the supersedeas.

(3) Failure to provide an affidavit supporting the facts alleged in the petition.

(4) Failure to state grounds sufficient for the granting of a supersedeas.

**§ 175.7. Circumstances affecting grant or denial.**

(a) The Bureau Director, in granting or denying a stay, will be guided by prevailing case law and precedent. The factors to be weighed include the following:

(1) The applicant is likely to prevail at the ultimate hearing on the merits;

(2) The applicant will sustain irreparable harm without the stay;

(3) The issuance of the stay will not substantially harm other interested parties in the proceedings.

(4) The issuance of a stay will not adversely affect the public interest.

(b) A stay will not be issued if injury to the health, safety and welfare of a horse, licensee or other racing participant exists or is threatened during the period when the stay would be in effect.

(c) In granting a stay, the Bureau Director may impose specific conditions in the stay that are reasonably warranted by the circumstances.

**§ 175.8. Waiver of hearings.**

A hearing need not be held if any of the following occurs:

(1) The appellant waives the right to a hearing and elects to proceed under the alternative procedures governing documentary hearings as set forth in Subchapter E (relating to documentary hearings).

(2) The appellant enters into a negotiated resolution of the underlying ruling of the Board of Judges with the Bureau Director.

(3) The Bureau Director determines, after reviewing the appeal and/or stay documents, that there are no material facts in dispute.

(4) Subsections (a)—(c) supersede 1 Pa. Code § 35.101 (relating to waiver of hearing).

**CHAPTER 177. BUREAU OF THOROUGHBRED HORSE RACING—TEMPORARY REGULATIONS**

Sec.

177.1. Director of the Bureau of Thoroughbred Horse Racing.

177.2. Authority of the Bureau Director.

177.3. Powers and duties of the Bureau Director.

177.4. Subpoena powers.

177.5. Date of filing appeals.

177.6. Contents of petition for stay.

177.7. Circumstances affecting grant or denial.

177.8. Waiver of hearings.

**§ 177.1. Director of the Bureau of Thoroughbred Horse Racing.**

The Commission shall assign the Bureau Director duties and responsibilities as required to fulfill the Commission's statutory obligations under the act specifically related to the Thoroughbred industry. The Commission may, by order, delegate certain duties and responsibilities to the Bureau Director as the Commission determines necessary to discharge the day-to-day licensing, enforcement and administrative operations of the Commission.

**§ 177.2. Authority of the Bureau Director.**

(a) The Bureau Director shall have authority to enter and issue the orders of the Commission and to certify copies of papers and documents which are part of the files or records of the Commission.

(b) The Bureau Director, in addition to the powers set forth in this part, shall be responsible for the efficient and orderly discharge of administrative matters including the keeping of Commission records, annual reports, minutes of Commission meetings and the keeping of the dockets, files and other records of the Commission.

**§ 177.3. Powers and duties of the Bureau Director.**

(a) The Bureau Director shall have the following powers and duties:

(1) Evaluate, review and issue all applicants and applications for a thoroughbred horse racing license in accordance with the standards set forth in the act. The Bureau Director shall be prohibited from disclosing any portion of an investigation or evaluation of an applicant to a Commissioner prior to the decision relating to the applicant's suitability for licensure if that determination is to be rendered the Commission.

(2) Inspect and monitor licensees and other persons regulated under this part for noncriminal violations, including potential violations of racing referred to the bureau by the Commission or any other person.

(3) Monitor horse racing operations and racing activities by all licensees to ensure compliance with the act and these regulations.

(4) Inspect, review, examine and investigate licensees, including the physical spaces and facilities in which licensees engages in racing activities, including stalls, barns, administrative offices, front-side and back-side areas of the licensed racing facility and racetrack enclosure.



(i) The Bureau Director's powers and duties may include the review and reproduction of any document or record.

(ii) Examinations may include the review of accounting, administrative and financial records, management control systems, procedures and other records.

(5) Refer possible criminal violations to law enforcement entities.

(6) Cooperate in the investigation and prosecution of any criminal violation by criminal law enforcement entities.

(7) Begin any racing related investigation as deemed necessary and appropriate under the general jurisdiction of the Commission.

(8) Implement, with the approval of the Commission and publication in the *Pennsylvania Bulletin*, a complete racing penalty matrix to be utilized by the Director, the Board of Judges or the Commission for violations of the rules of racing and administrative regulations.

(b) Upon the Bureau Director's own motion or upon written request of a licensee, the Bureau Director may review, for consistency and appropriateness, any administrative penalty issued by the Board of Stewards. Based upon the Bureau Director's review and analysis of the underlying matter, the Bureau Director may enforce the consistency of penalties imposed by the Board of Stewards, up to and including, the dismissal of the underlying ruling, or increasing or decreasing the imposed penalty.

#### § 177.4. Subpoena powers.

Under section 9311(d)(3) of the act (relating to State Horse Racing Commission), the Bureau Director or designee, shall have the authority to issue administrative or documentary subpoenas to compel the attendance of witnesses and production of all relevant and material reports, books, papers, documents, correspondence and other evidence related to regulation and enforcement of horse racing matters under the act and these regulations. The procedures for the issuance and enforcement of subpoena powers are governed by Chapter 179 (relating to Rules of Administrative Practice and Procedure—temporary regulations).

#### § 177.5. Date of filing appeals.

Appeals from the actions or rulings of the Board of Stewards shall be prepared and filed with the Bureau Director in accordance with the provisions set forth in §§ 179.3 and 179.7 (relating to filings and appeals; and request for hearing by applicant or licensee). The date of filing of an appeal or request for hearing shall be the date the written petition or request was physically received and date-stamped in the Executive Offices of the Commission.

#### § 177.6. Contents of petition for stay.

(a) In addition to the provisions of § 179.7 (relating to request for hearing by applicant or licensee), a party seeking a stay of an underlying ruling or determination by the Board of Stewards or other Commission staff shall comply with the following:

(1) A petition for a stay must be in writing, contain numbered paragraphs and must plead facts with particularity and be supported by affidavits and specific evidence of those facts.

(2) A petition for stay must state with particularity the citations of legal authority the petitioner believes form the basis for the grant of a stay.

(b) A petition for stay may be summarily denied by the Bureau Director for failure to comply with the following reasons:

(1) Lack of particularity of the facts pleaded.

(2) Lack of particularity or inapplicability of the legal authority cited as the basis for the grant of the supersedeas.

(3) Failure to provide an affidavit supporting the facts alleged in the petition.

(4) Failure to state grounds sufficient for the granting of a supersedeas.

#### § 177.7. Circumstances affecting grant or denial.

(a) The Bureau Director, in granting or denying a stay, will be guided by prevailing case law and precedent. The factors to be weighed include the following:

(1) The applicant is likely to prevail at the ultimate hearing on the merits;

(2) The applicant will sustain irreparable harm without the stay;

(3) The issuance of the stay will not substantially harm other interested parties in the proceedings;

(4) The issuance of a stay will not adversely affect the public interest.

(b) A stay will not be issued if injury to the health, safety and welfare of a horse, licensee or other racing participant exists or is threatened during the period when the stay would be in effect.

(c) In granting a stay, the Bureau Director may impose specific conditions in the stay that are reasonably warranted by the circumstances.

#### § 177.8. Waiver of hearings.

A hearing need not be held if any of the following occurs:

(1) The appellant waives the right to a hearing and elects to proceed under the alternative procedures governing documentary hearings set forth in Subchapter E (relating to documentary hearings).

(2) The appellant enters in a negotiated resolution of the underlying ruling of the Board of Stewards with the Bureau Director.

(3) The Bureau Director determines, after reviewing the appeal and/or stay documents, that there are no material facts in dispute.

(4) Subsections (a)—(c) supersede 1 Pa. Code § 35.101 (relating to waiver of hearing).

### CHAPTER 179. RULES OF ADMINISTRATIVE PRACTICE AND PROCEDURE—TEMPORARY REGULATIONS

#### Subchap.

- A. GENERAL PROVISIONS
- B. JUDGES AND STEWARDS HEARINGS
- C. COMMISSION HEARINGS
- D. EJECTION MATTERS EXPEDITED HEARING PROCEDURES
- E. DOCUMENTARY HEARINGS

#### Subchapter A. GENERAL PROVISIONS

- |        |   |
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| Sec.   |   |
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| 179.2. | Definitions.                                  |
| 179.3. | Filings and appeals.                          |
| 179.4. | Computation of time.                          |
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- 179.8. Commission original action with prior hearing.
- 179.9. Service by the Commission.
- 179.10. Subpoena powers and procedures.
- 179.11. Computation of time.
- 179.12. Extensions of time and continuances.
- 179.13. Complaints and other pleadings.
- 179.14. Answers to complaints, petitions, motions and other filings requiring a response.
- 179.15. Motions to protect confidential information.
- 179.16. Limited discovery.
- 179.17. Intervention.
- 179.18. Offers of settlement.

**§ 179.1. Generally.**

This chapter governs the practice and procedure before the Commission, its Bureau Directors or other Commission staff authorized to take necessary and appropriate licensing action and is intended to supersede specific provisions of 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

**§ 179.2. Definitions.**

(a) The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

*Adjudication*—An order, decree, decision, determination or ruling by the Commission affecting the personal or property rights, privileges, immunities, duties, liabilities or obligations of the parties to the proceeding in which the adjudication is made.

*Complaint*—A written statement of verified allegations submitted by a Bureau Director, Commission staff or other licensed person setting forth the violation of law or of rules and regulations promulgated thereunder.

*Documentary evidence*—Any document or paper which is presented and accepted as evidence in a proceeding.

*Documentary hearing*—A proceeding limited to a review of documentary evidence submitted by the parties, including pleadings, documents, affidavits and transcripts.

*Electronic mail*—A means of dispatching or receiving a submittal in relation to a Commission matter through electronic means.

*Formal investigation*—A matter initiated by the Commission, the Bureau Directors or Commission staff which results in a formal review of possible violations of the act or the rules and regulations promulgated by the Commission. An investigation may be initiated through or arising from written complaints, oral allegations, anonymous tips, video tape surveillance or other information collected or presented to the Commission.

*Hearing*—A proceeding, documentary or oral, initiated by the filing of a complaint, petition, motion, ruling of the Board of Judges or Board of Stewards or by order of the Commission.

*Hearing Notice*—A notice of the time and place of a hearing.

*Intervener*—A person who petitioned to intervene in a proceeding and has properly demonstrated an effected interest sufficient to create standing in the matter and who has been admitted by the Commission as a participant to the proceeding.

*Oral hearing*—A proceeding wherein the parties may present sworn testimony, documents or other evidence and of which a verbatim record is made.

*Party*—A person who is named in or admitted to a proceeding before the Commission and who has a direct interest in the subject matter of the proceeding.

*Prehearing conference*—A proceeding to establish a schedule, discuss offers of settlement and identify other issues the Commission, the Bureau Directors or presiding officer may direct.

*Presiding officer*—

(i) A member of the Commission or other person designated by the Commission to conduct a proceeding.

(ii) This definition supersedes 1 Pa. Code § 31.3 (relating to the definitions).

*Proceeding*—A matter intended to produce a formal record.

*Respondent*—A person subject to the jurisdiction of the Commission to whom an order or notice is issued by the Commission or Bureau Directors instituting a proceeding or investigation.

*Subpoena*—

(i) *Administrative subpoena*. An order of the Commission or designee directing a licensee or other person or witness to attend and present testimony and documents at a particular time, place and proceeding;

(ii) *Investigatory subpoena (Duces Tecum)* An order of the Commission or designee compelling a licensee to produce certain records, documents or other things related to an investigation which may be in the possession, custody or control of that person. (This definition supersedes 1 Pa. Code § 35.142 (relating to subpoenas).)

(b) Subsection (a) supersedes 1 Pa. Code § 31.3 (relating to definitions).

**§ 179.3. Filings and appeals.**

(a) *Initial Appeals*. Appeals from an action of the Judges or Stewards, Bureau Directors or other Commission staff, must comply with the provisions set forth in § 179.7 (relating to request for hearing by applicant or licensee), within the prescribed 10-day time period for appeals and must be physically received and date-stamped by the Commission’s Executive Office by first-class mail or in person at:

State Horse Racing Commission  
Docket Clerk  
Department of Agriculture Building  
Room 301  
2301 North Cameron Street  
Harrisburg, PA 17110

(1) Whether an appeal is considered timely shall be determined by the date of receipt by the Commission at the previous address and not the date of deposit in the mail system.

(2) No initial appeals shall be accepted by email or facsimile.

(3) The Commission or the Bureau Directors may order redundant, immaterial, impertinent or scandalous matters stricken from documents filed with it.

(b) *Acceptance of Appeal or Stay, or both*. The Bureau Directors or the Commission’s staff shall review the initial appeal request for compliance with § 179.7. A formal ruling granting or denying the appeal or the stay, or both, if properly requested shall be issued under signature of the Bureau Directors as soon as practicable.

(c) *Subsequent Filings*. Once an appeal has been granted and a matter is pending before the Commission, hearing notices shall be generated by and issued from the Hearings and Appeals Clerk, Office of Chief Counsel. All

subsequent correspondence, filings, pleadings or briefs relating to the proceeding filed by the parties shall be filed with the Hearings and Appeals Docket Clerk at the following address in one of the following methods:

(1) *First class mail.* Service may be made by mailing a copy to each party, properly addressed with postage prepaid.

(2) *Personal.* Service may be made personally.

(3) *Electronic.* With the specific authorization of the Commission or the presiding officer and if expedited relief is required, service may be made by either electronic mail or telefacsimile. In either manner, the parties shall specifically identify the type of document, the docket number and a brief description of the document.

Hearings and Appeals Docket Clerk  
Office of Chief Counsel  
Department of Agriculture Building  
Room 201  
2301 North Cameron Street  
Harrisburg, PA 17110

(d) If a hearing officer has been assigned, all subsequent motions, pleadings, correspondence or requests for continuances shall be filed with the hearing officer and served upon the parties to the proceedings as determined by the hearing officer.

(e) Subsections (a)—(d) supersede 1 Pa. Code § 31.5 (relating to communications and filings generally) and 1 Pa. Code § 31.11 (relating to timely filing required).

#### § 179.4. Computation of time.

(a) In computing a period of time prescribed or allowed by the act or this part, the day of the event or default after which the designated period of time begins to run is not included. The last day of the period is included, unless it is Saturday, Sunday or a legal holiday in this Commonwealth, in which case the period shall run until the end of the next day which is neither a Saturday, Sunday or holiday. Intermediate Saturdays, Sundays and legal holidays shall be included in the computation.

(b) Subsection (a) supersedes 1 Pa. Code § 31.12 (relating to computation of time).

#### § 179.5. Investigation and special procedures.

(a) The Commission, its Bureau Directors or Commission staff shall have the right at any time to initiate, conduct and convene investigatory meetings, interviews or hearings as deemed necessary and appropriate to oversee and regulate the proper administration of the act and the horse racing industry. Notice of the general scope of the inquiry or investigation may be given to the person(s) in the investigatory meetings, interviews or hearings, if disclosure will not compromise the investigatory process.

(b) Except for racing disqualifications and non-disqualifications matters, the Commission shall have the right to supersede the decisions or rulings of the Bureau Directors, its Judges or Stewards or other Commission staff at any time either, upon its own motion or upon written request. The action may be upon an interim or final basis and the Commission may make a partial adjudication and remand the remaining issues to the Bureau Directors, Judges, Stewards and Commission staff or the Commission may assume full and complete jurisdiction for all further purposes as it alone may deem appropriate and necessary.

(c) Where administrative action is to be taken on a license application, or a previously issued license, the

Commission, the Bureau Directors, or Commission staff, may take the necessary action either without a prior hearing being conducted under § 179.6 (relating to Commission action without prior hearing) or with a prior hearing being conducted under § 179.7 (relating to request for hearing by applicant or licensee).

#### § 179.6. Commission action without prior hearing.

(a) *New License.* When an application for an occupational license is to be refused by the Bureau Director(s) or Commission staff, the same may be done without prior hearing. Notice of the denial and the specific grounds for the denial, as set forth in section 9323(g) and (g.1) of the act (relating to occupational licenses for individuals), shall be given to the applicant or applicant's attorney, if applicable, at the address set forth in the license application.

(b) *Temporary License.* When a temporary license is to be suspended or revoked by the Bureau Director(s) or Commission staff, after issuance, the same may be done without a prior hearing, provided that the temporary license holder is given notice of the decision immediately and the licensee may demand, within 10 days of the notice, either an oral hearing to be conducted before the Judges/Stewards or a documentary hearing before the specific Bureau Director in accordance with provisions of Subchapter E (relating to documentary hearings).

(c) *Conditional License.* When a licensee, who has entered into a conditional license agreement with the Commission, has engaged in behavior or conduct which is expressly prohibited by the agreement and is of a nature that would warrant an immediate suspension or revocation, the Commission or its Bureau Director shall issue a Rule to Show Cause to the licensee.

(1) Within 10 days from the date of service of the Rule to Show Cause, the person against whom it is directed shall file a verified answer responding to the allegations, showing good cause why the occupational license should not be immediately suspended or revoked based solely upon the provisions of the fully executed conditional license agreement and setting forth whether a hearing is desired.

(2) Averments set forth in the Rule to Show Cause, which are not specifically denied by way of verified answer shall be deemed to have been admitted. Failure to file a proper and timely answer shall constitute a sufficient basis for the entry of a default order.

(3) If the matter proceeds to a hearing on the Rule to Show Cause, the Commission or duly appointed presiding officer will issue a written adjudication and order solely based upon the record.

(d) *Emergency action.* In emergency circumstances or in matters involving the clear and present danger to the integrity of racing, the health, safety and welfare of a racing participant or the health and welfare of a horse, the privilege of a permanent occupational license may be temporarily suspended or revoked by the Bureau Director or Commission staff without a prior hearing. Except that, the licensee shall be immediately notified, in writing, of the reasons supporting the emergency license suspension or revocation. In the event of a revocation, the licensee shall, if timely and appropriately requested, receive a hearing within 10 days of the temporary revocation in accordance with section 9323(i) and (j) of the act.

(e) *Content of Notices.* A written notice or Commission ruling relating to action taken without a prior hearing, including a license denial, refusal, conditional license

suspension or and emergency suspension or revocation shall include sufficient detail of the underlying facts as to reasonably inform the applicant or licensee of the basis for the action taken. The notice or ruling shall specifically advise the applicant or licensee of the right to appeal the matter to the Commission. The written notice or ruling shall be served upon the applicant or licensee in accordance with § 179.9 (relating to service by the Commission), except that if service is made by certified mail, the date of mailing will be deemed to be the date of service.

(f) *Failure to use license.* If a person holding a duly issued occupational license shall cease to actively pursue that occupation for a period in excess of 90 days, the license may be temporarily suspended by the Bureau Directors or licensing staff until the holder of the license submits satisfactory evidence of the anticipated resumption of active participation in racing. Instead of providing the information, a licensee may, at any time, surrender any or all occupational licenses previously issued by the Commission.

(g) *Finality.* In the event an applicant or licensee shall not timely or appropriately request a hearing, the matter shall be deemed final and unappealable to the Commission.

(h) Subsections (a)—(g) supersede 1 Pa. Code § 31.13 (relating to issuance of agency orders).

**§ 179.7. Request for hearing by applicant or licensee.**

(a) *Request for hearing.* A person aggrieved by actions taken by the Bureau Directors, Commission staff without a prior hearing or the actions of the Board of Judges or Board of Stewards, may appeal the action to the Commission. The appeal and request for a hearing must be made in writing to the respective Bureau Director and must be filed in accordance with the provisions of § 179.3(a) (relating to filings and appeals). A request for a hearing not properly filed shall be denied.

(1) The written request shall be sworn to before a notary public and shall set forth in numbered paragraphs a concise statement of all the factual and legal grounds upon which the hearing is requested.

(2) The hearing, if granted, shall be limited to matters or issues expressly set forth in the written appeal. All matters not expressly set forth in the initial appeal request shall be deemed waived.

(b) *Timeliness.* A request for a hearing, to be considered timely, must actually be received in the Commission's Administrative Office in Harrisburg and date-stamped within 10 days from the written or oral notice of the decision or ruling, license denial, suspension or revocation in accordance with § 179.3. Any appeal not filed in accordance with these provisions may be deemed incomplete, untimely or improperly filed and shall be denied.

(c) *Appeal bond.*

(1) *Purpose.* The posting of an appeal bond is designed to ensure that appellants engage in a thoughtful and accurate assessment of the underlying merits of their matter prior to requesting an administrative hearing before the Commission. The Commission finds that many appellants file appeals simply to delay the imposition of the ultimate penalty and, in many instances, withdraw their respective appeals at the very last minute or fail to appear at a duly scheduled hearing after the Commission has undertaken expenses associated with scheduling and conducting the hearing.

(2) *Amount.* In addition to all other requirements to timely and properly appeal decisions, determinations and rulings by the Board of Judges or Board of Stewards, Bureau Directors or Commission staff, all appellants must submit an appeal bond in the amount of \$750, in the form of a check or money order, along with their written request for a hearing or stay, or both. The amount of the appeal bond may be modified by the Commission and published in the *Pennsylvania Bulletin*.

(i) No appeal or request for a hearing shall be considered without the submission of the applicable appeal bond.

(ii) The appeal or request for a hearing shall be rescinded if the check upon which the appeal bond is written is dishonored.

(iii) No cash may be used as the appeal bond.

(3) *Forfeiture of bond.* The Bureau Directors or the Commission may withhold the appeal bond, either in whole or in part, if:

(i) The Commission expressly makes a finding and determination in its written adjudication that the underlying appeal was frivolous or without any factual or legal foundation.

(ii) Appellant fails (without due cause shown) to appear at the duly scheduled hearing, notwithstanding receipt of proper notice of the hearing.

(iii) Appellant withdraws or settles the appeal 3 days prior to the scheduled hearing date.

(d) *Payment of fines.* An appeal or request for a hearing from an underlying action or ruling shall not relieve the person of the requirement to pay the issued fine. If the appeal is disposed of in favor of the appellant, the Commission shall refund the amount of the fine.

(e) *Request for stay.* The underlying action or ruling to deny a license, suspend or revoke a license shall remain in full force and effect pending the final determination on the hearing demanded unless a party has requested and received a stay. Applications for a stay shall conform to the standards set forth in §§ 175.6 and 177.6 (relating to contents of petition for stay) of the Commission's regulations.

(1) If the underlying actions or determinations were taken by the Bureau Director, the request for a stay shall be ruled upon by the Commission or designee under the applicable standards for granting the relief.

(2) If the underlying actions were taken by Commission staff, the request for a stay shall be ruled upon by the respective Bureau Director, who for good cause shown, may grant a stay of the action or ruling until the final determination by the Commission in accordance with the applicable standards for granting the relief requested.

(3) The decision to grant or refuse a request for a stay shall be based upon a balancing of the pertinent facts sworn to by applicant and upon the sound discretion of the specific Bureau Director to whom the application is addressed.

**§ 179.8. Commission original action with prior hearing.**

(a) Upon receipt of a complaint filed under § 179.13 (relating to complaints and other pleadings) or upon its independent investigation or any other information the Commission may deem sufficient, the Commission may begin original action against a licensee. Prior to the original action taking effect, the Commission shall pro-



vide the licensee a written Notice of Violation and Proposed Administrative Penalties setting forth the applicable violations of the rules of racing, the applicable findings of fact and underlying administrative authority. The Notice of Violation shall also inform the licensee of the opportunity to request a hearing in the matter. A request for a hearing shall comply with § 179.7 (relating to request for hearing by applicant or licensee).

(b) Where a hearing is to be scheduled under any section of this chapter, the notice of hearing shall be served upon the parties at least 10 days prior to the date of the hearing unless the Commission, for cause stated, shall specify a lesser period, or the respondents shall agree to a lesser period or another section of this chapter shall explicitly provide for a hearing upon shorter notice. The notice of hearing shall provide:

- (1) The time, place and nature of the hearing.
- (2) The legal authority and jurisdiction under which the hearing is to be held with specific designation of the statutory or regulatory provisions alleged to have been violated.
- (3) A clear and concise factual statement sufficient to inform each party with reasonable definitiveness of the type of acts or practices alleged to be in violation of the act or regulations promulgated thereunder.

#### § 179.9. Service by the Commission.

(a) *Applicability.* This section applies to service of an order, notice, complaint or other similar document originating from the Commission, except when the Commission specifically requires a different form of service.

##### (b) *Forms of Service.*

(1) *Registered or certified mail.* Service may be made by registered or certified mail, return receipt requested, to the person to be served, addressed to the person designated in the initial pleading, submittal or notice of appearance at the person's residence, principal office or place of business.

(2) *First Class Mail.* If time is of the essence, instead of registered or certified mail, service may be made by regular first-class mail, postage prepaid, to the last known address previously provided by the party to the Commission.

(3) *Personal.* Service may be made personally by anyone authorized by the Commission. Service will be made by personally delivering a copy:

- (i) Directly to the person named in the notice, pleading or order or to an attorney representing said person.
- (ii) At the residence of the person named in the notice, pleading or order, or to an adult member of the family with whom the person named resides. If no adult member of the family is found, then to an adult person in charge of the residence.

(iii) At the licensed facility at which the person named is stabled, employed, licensed in connection therewith or routinely participates in racing at the facility.

(4) *Trainer of Record.* Service may be made upon the trainer of record as agent for and on behalf of the owner of a horse, who shall be solely responsible to notify the owner(s) of any notice, pleading or order. Service upon the trainer of record shall be deemed adequate and reasonable notice to the listed owner.

(5) *Service upon attorneys.* When an attorney enters an appearance under § 179.63 (relating to representation before the Commission) service must be directed to the

attorney in the same manner as prescribed for the client. Service upon the attorney shall be deemed service upon the party.

(c) *Proof of service.* Proof of service shall be evidenced by a return of service filed with the Hearing and Appeals Docket Clerk as set forth in § 179.3 (relating to filings and appeals).

(d) *Subsequent service.* Service of any subsequent document or correspondence in a proceeding may be made by electronic mail or first-class mail, or both, to the last known address previously provided by the party to the Commission.

(e) *Change of address.* It is the duty of a party to apprise the Commission of changes to the party's current address. Failure of a party to maintain an updated address with the Commission shall not be form a basis for an allegation of lack of service.

(f) Subsections (a)—(c) supersede 1 Pa. Code § 33.31 (relating to service by the agency).

#### § 179.10. Subpoena powers and procedures.

(a) *Authority.* In accordance with the provisions of the act, the Commission is vested with exclusive jurisdiction and authority to regulate the horse-racing industry, including the operations of horse racing, the conduct of pari-mutuel wagering activities and all licensed persons engaged in pari-mutuel horse racing activities within this Commonwealth. A properly issued investigatory or administrative subpoena issued under the authority of the act is considered an order of the Commission and shall have the same effect of any properly issued order, which may be enforced by the Commission by and through the licensing and enforcement provisions set forth in section 9323 of the act (relating to occupational licenses for individuals).

(b) *Investigatory Subpoena (Duces Tecum).* To effectuate its statutory authority and in furtherance of racing related investigations, the Commission, its Bureau Directors or Commission staff, under section 9312(4) of the act (relating to additional powers of commission), shall have the power to issue investigatory subpoenas necessary for the inspection, investigation and proper review of suspected or actual racing violations and other racing related matters.

(1) The production of documents, records, books, financial records and other documentary information sought by the investigatory subpoena shall be sufficiently limited in scope and purpose to not be unreasonably burdensome and shall be related to the initiation of an investigation or the furtherance of an ongoing investigation regarding suspected or actual violations of the rules of racing and pari-mutuel racing activities within this Commonwealth.

(2) Probable cause is not necessary for the issuance of the investigatory subpoena.

(3) Investigatory subpoenas shall be served in accordance with the provisions set forth in § 179.9 (relating to service by the Commission).

(4) The Commission, Bureau Directors or Commission staff, in the course of an investigation or racing matter, may conduct personal interviews of licensees and take written witness statements under oath from the licensees. They may administer oaths, take testimony and record the proceeding as necessary for the proper conduct of the investigation.

(c) *Form of investigatory subpoena.* The subpoena shall include all of the following:



(1) A brief written statement of the general relevance relating to the initial or ongoing racing-related investigation, the scope of the documentary evidence sought and specify, as nearly as possible, the documents desired and time period associated with the particular investigation.

(2) A notice that a response or objection to the subpoena must be filed with the Commission or the Bureau Director within 20 days of service of the subpoena.

(3) A notice advising of the licensee of potential licensing consequences for failure to timely respond, object or produce the requested documents.

(4) A certificate of service.

(d) *Refusal to comply with investigatory subpoena.* All licensees shall fully comply with a properly issued and served subpoena in accordance with the previous provisions. The Commission, Bureau Director or other designee shall make every reasonable effort to coordinate with the licensee the production and receipt of the required documents. The Commission and the subpoenaed parties may agree to provide documents on an ongoing basis which may be deemed substantial compliance. Any party failing to timely object, respond or produce the requested documents may be subject to a fine, license suspension or any other penalty provided for in the act.

(1) *Show Cause.* If a licensee fails or refuses to comply with the investigatory subpoena, the Commission or Bureau Directors shall issue a Rule to Show Cause directed to the licensee to show good cause for failing or refusing to comply with the properly issued subpoena. The Show Cause hearing shall be conducted in accordance with the hearing provisions set forth in Subchapter C (relating to Commission hearings).

(2) *Penalty.* The Commission shall issue an adjudication and order. Any subsequent licensing action taken by the Commission for failure or refusal to comply with the subpoena, after the show cause hearing, shall be based upon its authority to enforce racing related orders as set forth in section 9323(g.1) of the act.

(3) Subsection (d) supersedes 1 Pa. Code §§ 35.14 (relating to orders to show cause).

(e) *Administrative Subpoena (Ad Testificandum).* Under section 9311(d)(3)(vii) of the act (relating to State Horse Racing Commission), the Bureau Director or presiding officer shall have the power to issue an administrative subpoena to compel the attendance of witnesses and production of relevant, material reports, books, papers, documents, correspondence and other similar evidence at a hearing.

(1) Administrative subpoenas, authorized under the act and this section shall be signed and issued over the seal of the Commission to any party, upon proper written application to the Commission or presiding officer at least 10 days prior to the hearing or proceeding. The written application, shall be set forth in numbered paragraphs, the general relevance, materiality and scope of the testimony of the witness and the documentary evidence sought. Failure to provide adequate grounds for the necessity of the subpoena shall be sufficient reason for the denial of the subpoena. Each party shall be responsible for the service of the requested subpoena.

(2) Witness and mileage fees shall be paid to the witness subpoenaed to appear at a proceeding before the Commission or the presiding officer and shall be paid by the party at whose instance the witness is called at the rate specified by the courts of common pleas.

(3) A proposed subpoena must be attached to the written application for said subpoena addressed to the presiding officer.

(f) *Duty of licensee.* The issuance of a subpoena under this part will not be required to secure the cooperation of a person who is an applicant for or the holder of a license issued by the Commission or to secure the voluntary cooperation of any person.

(g) Subsections (a)—(f) supersede 1 Pa. Code §§ 35.139 and 35.142 (relating to fees of witnesses; and subpoenas).

**§ 179.11. Computation of time.**

(a) In computing a period of time involving the date of the issuance of a ruling or order by the Commission, the Bureau Directors or other Commission staff authorized to issue orders, the day of issuance of an order will be the date the ruling or order is entered. An order will not be made public prior to its entry, except when, in the Commission's judgment, the public interest so requires. The date of entry of an order may or may not be the day of its adoption by the Commission.

(b) The date of issuance of an order shall be deemed to be the date of entry for the purposes of computing the time for appeal under an applicable statute relating to judicial review of Commission action.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 31.13 (relating to issuance of agency orders).

**§ 179.12. Extensions of time and continuances.**

(a) Extensions of time will be governed by the following:

(1) When an act is otherwise required to be done at a specified time or within a specified time, the date or period of time prescribed may be extended by the Commission, for good cause, upon a motion made before expiration of the period originally prescribed. An extension for time to comply with the specified time period after the expiration date shall be at the sole discretion of the Commission.

(2) Written requests for an extension of time in which to file motions, briefs or other pleadings within a proceeding shall be filed at least 5 days before the time fixed for filing the documents unless the Commission or presiding officer, for good cause shown allows a shorter time. Concurrence or denial of extension of time shall be reported to the presiding officer in the request.

(3) Requests for a continuance of a hearing shall be made in writing at least 96 hours prior to the time fixed for hearing to the presiding officer, specifically setting forth the facts upon which the request for continuance rests. An application received by the presiding office within the 96-hour period will not be granted, except upon extreme cause. A verification of the facts shall accompany the written request for continuance. No more than two continuances may be approved to any party.

(b) Subsection (a) supersedes 1 Pa. Code § 31.15 (relating to extensions of time).

**§ 179.13. Complaints and other pleadings.**

(a) *Pleadings.* Only the following pleadings shall be permitted:

- (1) Complaints.
- (2) Petitions.
- (3) Motions.
- (4) Applications for licensure.

(5) Answers to pleadings.

(b) *Fees.* Fees for copies and other administrative requests, if any, will be in accordance with a fee schedule adopted by the Commission published in the *Pennsylvania Bulletin* and posted on the Commission's web site.

(c) *Complaints.* A person complaining of an act done or failed to be done by a person subject to the jurisdiction of the Commission, in violation, or claimed violation of the statute which the Commission has jurisdiction to administer, or of a regulation or order of the Commission, may file a formal complaint with the Commission.

(1) Complaints may be filed by the Bureau and other persons authorized by the Commission.

(2) With respect to complaints filed against the Commission, no answer need be filed. The issues in the proceeding may be determined by prehearing conference memoranda or as specified by the presiding officer.

(3) Complaints will be served in accordance with § 179.9 (relating to service by the Commission).

(d) *Content of formal complaint.* A formal complaint must set forth the following:

(1) The name, mailing address, telephone number, telefacsimile number and electronic mailing address, if applicable, of the complainant.

(2) If the complainant is represented by an attorney, the name, mailing address, telephone number, telefacsimile number and Pennsylvania Supreme Court identification number of the attorney and, if available, the electronic mailing address.

(3) The name, mailing address and certificate or license number of the respondent complained against, if known, and the nature and character of its business.

(4) The interest of the complainant in the subject matter—for example, trainer, owner, licensed racing entity, and the like.

(5) A clear and concise statement of the act or omission being complained of including the result of any informal complaint or informal investigation.

(6) A clear and concise statement of the relief sought.

(7) Except for the documents referenced within § 179.13 (relating to complaints and other pleadings), a document or the material part thereof, must be attached when a claim is based upon that particular document, the material part thereof. A copy of the document or the material part thereof shall be attached to the pleading.

(e) This section supplements 1 Pa. Code §§ 35.9—35.11 (relating to formal complaints).

**§ 179.14. Answers to complaints, petitions, motions and other filings requiring a response.**

(a) Answers to complaints, petitions, motions and other filings requiring a response and are subject to a proceeding, shall be filed with the Commission or its presiding officer, if applicable, and a copy shall be filed with the Hearings and Appeals Docket Clerk and served upon all other parties within 30 days after the date of service of the complaint, petition, motion or other pleading, unless a different time is prescribed elsewhere in the Commission's regulations.

(b) Failure to file a timely answer to a complaint or petition will constitute an admission of all matters and facts contained in the filing and may result in the waiver of the right to a hearing. This subsection shall not apply to petitions or motions made to the Commission.

(c) Answers may contain the following:

(1) Admissions of the matter complained of and the alleged facts, in whole or in part.

(2) New matter or explanation by way of defense.

(3) Legal objections.

(4) Affirmative defenses.

(5) A request for a hearing.

(d) Answers shall be in writing and shall specifically and in detail admit or deny each allegation in the pleading.

(e) Sections (a)—(d) supersede 1 Pa. Code §§ 35.35—35.40 (relating to answers).

**§ 179.15. Motions to protect confidential information.**

(a) A party or individual may designate information as confidential under § 173.8 (relating to confidential information) in any papers filed with the Commission by filing a Motion to Protect Confidential Information.

(b) A Motion to Protect Confidential Information must:

(1) Set forth the specific reasons why the information should be deemed to be confidential information and, therefore, protected.

(2) Label as confidential all documents or portions of documents in the filing containing the confidential information that the party or individual is seeking to protect.

(c) Upon the filing of the Motion to Protect Confidential Information, the Bureau Director or presiding officer, if one has been assigned, will review the motion and accompanying filings and, upon determining that a substantial basis exists, shall issue an interim order to protect the information, whether in the motion or the accompanying filings, from disclosure until the Commission considers the final matter in accordance with 65 Pa.C.S. §§ 701—716 (relating to open meetings). At all times during the pendency of the motion, the information in the motion and the accompanying filings shall be treated as confidential.

**§ 179.16. Limited discovery.**

(a) The ability to obtain discovery in an administrative proceeding before the Commission or presiding officer is committed to the discretion of the Commission or presiding officer and unless otherwise privileged or unavailable, discovery may be granted but limited to the following:

(1) Production of documents previously introduced at a Judges/Stewards hearing, if applicable.

(2) Production of documents or things to be introduced at the proceeding or hearing, including a list of witnesses.

(b) Requests for the limited discovery above, shall be in writing and shall set forth, with particularity, the information, documents and names of witnesses sought. The written request shall be filed with the presiding officer, if appointed and served upon the Commission's attorney or the opposing party in sufficient time to allow completion of discovery prior to the hearing.

(c) The Commission or presiding officer may grant the limited request for discovery if the request will serve to facilitate the efficient and expeditious hearing process, and will not unduly prejudice or burden the responding party.

(d) Discovery is not permitted which is sought in bad faith, would cause unreasonable delay, annoyance, embarrassment, burden or expense to the Commission or opposing party.

(e) Each party shall attempt to determine the witnesses they intend to call at the hearing and the names shall be exchanged between parties no later than 3 work days in advance of the hearing. Calling a witness whose name does not appear on the list may be permitted at the discretion of the Commission or presiding officer.

(f) Confidential information, as determined by the Commission, which is furnished to or obtained by the Commission from any source will not be discoverable under this subsection.

(g) Notwithstanding subsections (a)—(f), the parties to the proceeding are encouraged and may, by agreement, and informal basis provide or exchange, or both, the applicable documentation before the proceeding.

(h) Subsections (a)—(g) supersede 1 Pa. Code §§ 35.145—35.152 (relating to depositions).

**§ 179.17. Intervention.**

(a) *Generally.* The decision to grant a petition to intervene in a proceeding before the Commission or a presiding officer is within the sole discretion of the Commission or presiding officer.

(b) *Petition.* Petitions to intervene must be in writing and set forth, in numbered paragraphs, the specific facts demonstrating the nature of the alleged right or interest of the petitioner, the grounds for the proposed intervention and the position of the petitioner in the proceeding. The petitioner shall fully advise the parties and the Commission of the specific issues of fact or law to be raised or controverted, by admitting, denying or otherwise answering, specifically and in detail, each material allegation of fact or law asserted in the petition, complaint or application initiating the proceeding and citing by appropriate reference provisions or other authority relied upon. The petition to intervene shall be filed with the Commission and served upon the named parties to the underlying proceeding in accordance with § 179.3 (relating to filings and appeals).

(c) *Determination.* The Commission or the presiding officer, if appointed, will issue a decision on the petition to intervene as soon as practicable, after the expiration of the time for filing answers to the petition, if it is determined that:

(1) The person has an interest in the proceeding which is substantial, direct and immediate.

(2) The interest is not adequately represented by a party to the proceeding.

(3) The person may be bound by the action of the Commission in the proceeding.

(d) *Notice of matters subject to intervention.* The Commission shall publish in the *Pennsylvania Bulletin*, on its web site or announce at a regularly scheduled public meeting receipt of a timely, complete and properly filed application, petition or complaint submitted to the Commission for authorization or permission to engage in certain licensed racing activities under the act. Applications or petitions for authorization or permission to do any of the following shall be noticed as set forth above:

(1) Application for a license to conduct horse race meetings.

(2) Petition to transfer a license of a licensed racing entity.

(3) Petition to change ownership of a licensed racing entity.

(4) Petition to engage in or operate an electronic wagering system or otherwise offer electronic wagering to individuals within this Commonwealth regarding to a SPMO.

(5) Application for a license to operate as a totalisator system or racing vendor.

(e) *Timing.* Petitions to intervene may be filed no later than 30 days after due notice by the Commission as set forth above, unless in extraordinary circumstances and for good cause shown, the Commission authorizes a later filing. No petitions to intervene may be filed or will be acted upon during a hearing unless permitted by the Commission or presiding officer after opportunity for all parties to object thereto.

(f) *Answer to petition.* A party, including the Commission's representatives, may file an answer to a petition to intervene, and in default thereof, will be deemed to have waived any objection to the granting of the petition to intervene. Answers shall be filed within 10 days after the date of filing of the petition to intervene, unless for cause the Commission prescribes a different time.

(g) *Participation of intervenor.* Except when the Commission determines that it is necessary to develop a comprehensive evidentiary record, the participation of a person granted the right to intervene in a proceeding will be limited to the presentation of evidence through the submission of verified written statements attested to under oath. At the discretion of the Commission, the written statements may become part of the evidentiary record.

(1) Where there are two or more intervenors having substantially like interests and positions, the Commission or presiding officer may, to expedite the hearing, set appropriate limitations on the number of attorneys who will be permitted to cross-examine and make and argue motions and objections on behalf of the intervenors.

(h) Sections (a)—(g) supersede 1 Pa. Code §§ 35.27—35.32 and 35.36 (relating to intervention; and answers to petitions to intervene).

**§ 179.18. Offers of settlement.**

(a) It is the policy of the Commission to encourage settlements or resolutions of underlying matters pending before the Bureau Directors, the Commission or a presiding officer.

(b) Nothing contained in this chapter shall preclude a party in a proceeding from submitting, at any time, offers of settlement or proposals for resolution to the Bureau Directors.

(c) If the parties settle or resolve a matter prior to the issuance of a Commission adjudication and order, the appellant shall submit a written withdrawal of the appeal to the Hearings and Appeals Docket Clerk as set forth in § 179.3 (relating to filings and appeals) and Commission staff shall issue a modified ruling or order, as applicable.

(d) Appeals withdrawn and matters settled between the appellants and the Bureau Directors are final and not appealable to the Commission.

(e) Offers of settlement, of adjustment or resolution not agreed to by the parties, will not be admissible in evidence against the party claiming the privilege.



(f) Subsections (a)—(e) supersede 1 Pa. Code § 35.115 (relating to offers of settlement).

### Subchapter B. JUDGES AND STEWARDS HEARINGS

Sec.

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#### § 179.21. Scope.

(a) This subchapter governs the practice and procedure before the respective Board of Judges and the Board of Stewards of the Commission.

(b) This subchapter shall be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding to which it is applicable. Judges and Stewards may disregard an error or defect of procedure which does not affect the substantive rights of the parties, especially when the proceeding is related to a pro se licensee.

(c) This subchapter is intended to supersede the applicability of 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) to practice and procedures before the Judges/Stewards.

(d) Subsection (b) supersedes 1 Pa. Code § 31.2 (relating to liberal construction).

#### § 179.22. General power of the Judges and Stewards.

The Board of Judges and the Board of Stewards shall have the power to enforce the breed-specific rules and procedures of Standardbred racing or Thoroughbred racing, and otherwise resolve conflicts, disputes and impose penalties for violations of the rules and regulations of the Commission. The Judges and Stewards, in the best interests of racing, shall also have the power and jurisdiction over racing matters which are not expressly covered by this chapter. In all cases, the Judges and Stewards shall render their respective determinations in accordance with the generally accepted customs and usages of racing in conformity with equitable standards of justice.

#### § 179.23. Jurisdiction of Judges and Stewards.

(a) Jurisdiction and powers of the Judges and Stewards shall begin at the time when entries are taken for the first day of a racing meeting and shall terminate with the completion of their official business pertaining to the meeting. If a dispute or matter is unresolved at the time of completion of the meet, it may be heard later or disposed of by other Judges or Stewards or referred to the Commission. This section does not limit the power of the Judges or Stewards to impose sanctions continuing beyond the end of the race meeting. If there are succeeding

meets at a racetrack facility, the power of the Judges and Stewards is deemed to be continuing and sustaining.

(b) On their own motion or on receipt of a complaint from an official or other person regarding the actions of a licensee, the Judges/Stewards may conduct a preliminary inquiry into a suspected violation of the rules of racing, but thereafter, shall refer the matter to Commission investigators for final investigation and disciplinary proceedings.

(c) A matter coming before the Judges or Stewards shall be decided within 15 days of the first formal action taken thereon, unless continued by agreement of the Judges or Stewards. No matter may be continued for more than an additional 15 days.

#### § 179.24. Rights of the licensee.

A person who is the subject of an evidentiary hearing conducted by the Judges or Stewards is entitled to proper notice of all charges, entitled to confront the evidence presented at the hearing and shall be afforded the following:

- (1) the right to counsel at the person's expense;
- (2) the right to examine all evidence to be presented against him/her;
- (3) the right to present a defense;
- (4) the right to call witnesses;
- (5) the right to cross examine witnesses; and
- (6) the right to waive any of the previous rights.

#### § 179.25. Notice required.

(a) Before any penalty may be imposed by the Judges or Stewards under the provisions of the act and this part, written notice must be given to the party to be charged with a violation. Unless the matter is an emergency, before holding the disciplinary hearing, the Judges or Stewards shall provide written notice to the party to be charged with a violation at least 5 days before the hearing.

(b) If possible, the Judges or Stewards or Commission investigators shall hand deliver the written notice previously mentioned in subsection (a) to the person who is the subject of the disciplinary hearing. If hand delivery is not possible, the Judges or Stewards shall mail the notice to the person's last known address, as found in the Commission's licensing files, by regular mail and by certified mail, return receipt requested.

(c) If the disciplinary hearing involves an alleged medication violation that could result in the disqualification of the horse, notice of the hearing provided to the trainer of record, as set forth above, shall also be deemed adequate and reasonable notice to owner of the horse. It shall be the trainer's sole responsibility, as agent of the owner, to notify the owner of the medication hearing. The owner of the horse may attend and participate in the hearing to the extent the underlying matter may affect the interest of the horse.

(d) The failure of the summoned person to appear, after proper notice, shall be construed as a waiver of the right to a hearing before the Judges or Stewards and the Judges or Stewards shall issue a ruling as a default. The Judges or Stewards may impose an additional fine or suspension to the person who fails to appear at a disciplinary hearing after written notice of the hearing has been sent.



**§ 179.26. Contents of notice.**

The written notice required by § 179.25 (relating to notice required) shall:

(a) Informally and generally describe the nature of the infraction or violation charged.

(b) A reference to the particular provisions of the statutes or rules potentially involved.

(c) State the time and place of hearing.

(d) Notify the party of his right to have counsel or an observer of his choice and that he bears the sole responsibility for securing and insuring the presence of the same.

(e) Provide for the right to waive transcription of testimony at the hearing.

**§ 179.27. Continuances.**

Upon receipt of a hearing notice, a person may request a continuance of the hearing from the Judges or Stewards, who may, in their sole discretion, grant a continuance for good cause shown. The Judges or Stewards may at any time order a continuance on their own motion.

**§ 179.28. Power to subpoena witnesses.**

The Judges and Stewards may require, by subpoena, the personal attendance of witnesses and the reproduction of books, records, papers, correspondence and other documents relevant to the proceeding before them.

**§ 179.29. Presence of Judges and Stewards at hearing.**

At least the Presiding Judge or Presiding Steward and one Associate Judge or Associate Steward shall be present at all times throughout the hearing.

**§ 179.30. Testimony.**

Testimony at a hearing shall be given under affirmation or oath and a record shall be made of the hearing, either by use of a tape recorder or by the transcript of the court reporter. Except that: Judges or Stewards shall not be required to receive testimony under oath in cases where their ruling is based solely upon a review of the video tapes of a race. The party may request a viewing of the film in the presence of the Judges or Stewards at the hearing and be given an opportunity to state his own interpretation of the same.

**§ 179.31. Hearing.**

(a) *Hearing.* No final determination may be made by the Judges or Stewards until the hearing is completed and the evidence has been received and the party charged has been given the opportunity to hear the evidence presented and the opportunity to defend. If a subpoenaed or noticed party fails to appear, an order or ruling may be entered by default.

(b) *Order of Hearing.* Judges and Stewards shall have the discretion to conduct the hearing in accordance with the following:

(1) The Judges or Stewards shall open the hearing by indicating the date and time, make a concise statement of its scope and purposes and announce that a record of the hearing is being made. All witnesses shall be sworn by the Judges or Stewards.

(2) When a hearing has begun, a party or a party's representative may make an opening statement only if necessary or permitted by the Judges/Steward.

(3) A party, a party's representative or any other person or witness who may testify at the hearing shall be identified on the record.

(4) The Judges or Stewards may receive and review any preliminary relevant motions and afford each party of record the opportunity to submit a subsequent written motion. They may render a decision on the motion immediately or take that matter under consideration.

(5) The Commission investigators shall have the burden of proceeding in the matter first. At the discretion of the Judges or Stewards, they may change the order of testimony of the party or witness. A party who asserts a particular fact or issue shall have the burden of proof of that matter.

(6) The Judges or Stewards shall afford each party the opportunity to present the party's direct case and witnesses. Each party, as well as the Judges or Stewards may cross examine each witness.

(7) In the course of the hearing, the Judges or Stewards may receive all relevant documentary evidence, including investigative reports, video tapes, lab reports or other similar records.

(8) At the conclusion of all evidence and cross examination, at the discretion of the Judges or Stewards, closing statements may be allowed and the evidentiary record shall be closed.

(c) *Behavior.* Each party, witness, attorney or other representative shall, at all times, behave in the Judge or Steward's proceedings with dignity, courtesy and respect for the Judges or Stewards and all other parties and participants. An individual who violates this section may be excluded from a hearing by the Judges or Stewards.

**§ 179.32. Evidence.**

The Judges or Stewards shall allow a full presentation of evidence and are not bound by the technical rules of evidence. However, the Judges or Stewards may disallow evidence that is irrelevant or unduly repetitive of other evidence. They shall have the authority to determine, in their sole discretion, the weight and credibility of any evidence or testimony, or both. The Judges or Stewards may admit hearsay evidence if in the opinion of the Judges or Stewards it is the type of evidence that is commonly relied on by reasonably prudent people.

**§ 179.33. Duty to testify.**

It shall be the duty of all persons to make full and complete disclosure to the Judges or Stewards of a fact or knowledge the person may possess regarding violations or possible violations of a rule of racing or of the law. No person may refuse to testify before the Judges or Stewards on a relevant matter except upon proper exercise of a legal privilege, nor may a person testify falsely or incompletely to the Judges or Stewards. If a person refuses to testify or falsely testifies as set forth, that matter may be referred to the Commission for a licensing action.

**§ 179.34. Votes of Judges or Stewards.**

The Judges or Stewards shall decide all matters coming before them by majority vote. Should a Judge or Steward vote in the minority, that Judge or Stewards shall immediately make full report thereof to the Commission. Judges or Stewards so voting shall have the right to file a separate opinion thereof to the Commission. The ruling of the Judges or Stewards shall be generally in the form approved by the Commission. All rulings must be signed by the majority of the Judges or Stewards.

**§ 179.35. Records.**

A written report concerning formal orders, rulings and other matters coming before the Judges or Stewards shall

be kept by them and copies of the same shall be transmitted to the Commission.

**§ 179.36. Matters referred to the Commission.**

Judges or Stewards shall have the power to refer a matter within their jurisdiction or powers directly to the Commission either before or after holding a hearing thereon. The Judges or Stewards may refer a matter for initial hearing to the Commission whenever it is deemed by them to be impossible or impracticable to hold the initial hearings, or because of the ending of a meet or for other good and substantial reason.

**§ 179.37. Original record.**

Upon request by the Commission or the Bureau Directors, the original record of the hearing of the Judges or Stewards shall be delivered by them to the Commission. The record shall properly reflect whether the notice of the penalty, order, ruling or determination has been issued orally or in writing. If oral notice was given, the record shall reflect the date, time and place when it was given. If written notice was given, the record shall reflect the date and manner that written notice thereof was given.

**§ 179.38. Ruling.**

(a) In cases involving a penalty, fine, suspension or sanction of any nature, the ruling of the same shall be given in writing to the adversely affected party, in the format adopted and approved by the Commission and must include the following:

- (1) the full name, Social Security number, date of birth, last record address, license type and license number of the person who is the subject of the hearing;
- (2) a statement of the charges against the person, including a reference to the specific section of the act or rules of the Commission that the licensee is found to have violated;
- (3) the date of the hearing and the date the ruling was issued;
- (4) the penalty imposed;
- (5) any changes in the order of finish or purse distribution; and
- (6) other information required by the Commission.

(b) At the time the Judges or Stewards inform a person who is the subject of the proceeding of the ruling, the Judges or Stewards shall inform the person of the person's right to appeal the ruling to the Commission.

(c) All fines imposed by the Judges or Stewards shall be paid to the Commission within 10 days after the issuance of the ruling, unless otherwise ordered by the Judges or Stewards.

**§ 179.39. Effective date of decisions.**

A decision rendered by the Judges or Stewards shall only become effective 10 days after the ruling is served personally on the affected party or 10 days after the ruling has been sent by certified mail to the address given by the affected party in his license application, unless the Judges or Stewards find the delay to be contrary to the public interest. An affected party shall have the right to waive the delay in the effective date of the ruling and may, by writing, consent to immediate imposition of the sanction or order.

**§ 179.40. Summary suspension available.**

(a) If the Judges or Stewards determine that a licensee's actions constitute an immediate danger to the public

health, safety or welfare or the health and safety of a horse, the Judges or Stewards may summarily suspend the license pending an emergency hearing.

(b) A licensee whose license has been summarily suspended is entitled to an emergency hearing on the summary suspension within 3 days after the license was summarily suspended. The licensee may waive the right to an emergency hearing on the summary suspension.

(c) The Judges or Stewards shall conduct the emergency hearing on the summary suspension in the same manner as other disciplinary hearings. At an emergency hearing on a summary suspension, the sole issue is whether the person's license should remain suspended pending a final disciplinary hearing and ruling.

**§ 179.41. Review and appeal.**

A person aggrieved by a ruling of the Judges or Stewards may appeal the matter to the Commission, except as provided in § 179.43 (relating to non-disqualifications not appealable) of this part. The appeal from the decision of Judges or Stewards must be made in writing and must conform to all the requirements set forth in § 179.3 (relating to filings and appeals). All appeals shall also be accompanied by an appeal bond made payable to the Commission in the amount as determined by the Commission as set forth in § 179.7 (relating to request for hearing by applicant or licensee).

**§ 179.42. Request for stay.**

(a) The final determination or ruling by Judges or Stewards shall remain in full force and effect pending the final determination on the hearing, if granted. An aggrieved party, in addition to the written requirements set forth above for an appeal, may separately request a stay of the Judges' or Stewards' ruling or decision pending a final determination by the Commission. In accordance with § 175.6 or § 177.6 (relating to contents of petition for stay), the Bureau Director may, for good cause shown, grant a stay of the Judges'/Stewards' ruling until the final determination by the Commission provided that sufficient facts are presented by affidavit to warrant the stay.

(b) Applications for a stay shall conform to the standards set forth in § 175.6 and § 177.6 of the Commission's regulations. The decision to grant or refuse a request for a stay shall be based upon a balancing of the pertinent facts sworn to by applicant but shall be based upon the sound discretion of the Bureau Director to whom the application is addressed.

**§ 179.43. Non-disqualifications not appealable.**

The decision by the Judges or Stewards not to disqualify a horse after the running of a race has been declared official is final and may not be appealed to the Commission. This subsection is not applicable to disqualifications of horses resulting from medication or drug violations.

**Subchapter C. COMMISSION HEARINGS**

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**§ 179.51. Generally.**

(a) A hearing calendar of all matters set for hearing will be maintained by the Hearings and Appeals Docket Clerk as set forth in § 179.3(b) (relating to filings and appeals) and will be in order of assignment as far as practicable. All matters will be heard before the Commission in Harrisburg, Pennsylvania.

(b) The Commission may designate a Commissioner or other qualified person to serve as presiding officer in a particular matter or proceeding. The Commissioner, presiding officer or other duly appointed person shall conduct the proceeding in an impartial manner. All appearances will be entered upon the record, with a notation on whose behalf each appearance is made. A notation will be made in the record of the names of the members of the staff of the Commission participating, if any, including accountants and other experts who are assisting in the investigation of the matter.

(c) In oral hearings, neither the Commission, nor the presiding officer will be bound by technical rules of evidence and all relevant evidence of reasonably probative value may be received. Reasonable examination and cross-examination will be permitted at all oral hearings. If a party does not testify on his own behalf, the party may be called and examined as if under cross-examination.

(d) Subsections (a) and (b) supersede 1 Pa. Code §§ 35.102, 35.123 and 35.124 (relating to hearing calendar; conduct of hearings; and appearances).

**§ 179.52. Nature of Commission hearings.**

(a) *Appeals from Judges or Stewards.* An appeal to the Commission from a decision or ruling of the Board of Judges or the Board of Stewards, as set forth in Subchapter B (relating to Judges and Stewards hearings), shall be limited to the underlying evidentiary record created by the parties and Commission investigators at the hearing before the Judges or Stewards and shall not be considered a hearing de novo.

(1) The Commission's review of the Judges' or Stewards' rulings shall be limited to a review for errors of law and whether the findings or conclusions set forth by the Judges or Stewards are supported by appropriate evidence contained in the hearing record.

(2) Issues not raised by appellant in the notice of appeal will be deemed waived.

(b) *Original action.* An appeal from a determination, decision or ruling by the Bureau Directors, the Commission's licensing or investigative staff, or a matter specifically referred to the Commission by the Board of Judges or Board of Stewards shall be a de novo hearing.

(c) Subsection (b) supersedes 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).

**§ 179.53. Commission hearings.**

(a) Unless the Commission hears the matter directly, all matters shall be assigned to a presiding officer or other duly qualified person to serve as a presiding officer in the particular proceeding.

(b) Hearings will be public unless a party invokes protection afforded to the party under § 173.8 (relating to confidential information).

(c) Matters proceeding under the provisions of § 179.52(b) (relating to nature of Commission hearings) may provide for:

(1) Receipt of sworn testimony, including testimony from the original matter before the Bureau Director or Commission staff.

(2) Receipt of all relevant oral or documentary evidence used in the original determination or decision.

(3) Opportunity to be heard.

(4) A complete evidentiary record, including other pleadings, motions or briefs submitted.

(d) Unless required by this part or authorized by law, a party may not engage in an ex parte communication with the Commission or the presiding officer.

(e) Subsections (a)—(d) supersede 1 Pa. Code §§ 35.121—35.126 (relating to hearing).

**§ 179.54. Scheduling of hearing.**

(a) On behalf of the Commission, the Hearings and Appeals Docket Clerk, will schedule the appropriate hearing in chronological order of receipt and will maintain a hearing calendar of all proceedings, with assigned docket numbers set for hearing.

(b) Proceedings pending on the hearing calendar will be heard so far as practicable, in their order of assignment to the calendar at the times and places fixed in the hearing notices, giving due regard to the convenience and necessity of the parties and their attorneys, where possible.

(c) The Commission or the presiding officer in the exercise of discretion, for cause, may advance or postpone proceedings on the hearing calendar with notice to the parties.

(d) Subsections (a)—(c) supersede 1 Pa. Code § 35.102 (relating to hearing calendar).

**§ 179.55. Hearing notices.**

(a) *Notices.* Notice of a hearing will be provided to the appellant or counsel in writing and issued by the Hearings and Appeals Docket Clerk, by any of the following methods: certified mail (return receipt requested), first class mail, personal service or by email, if agreed upon by the parties and their counsel as set forth in § 179.9 (relating to service by the Commission).

(b) The written hearing notice to appellant shall include, the time, date and location of the hearing and indicate the method of service used. The notice shall also contain a general factual statement of the underlying matter and grounds for appeal.

(c) Notices may also provide information relating to:

- (1) Applicable regulations and conduct of the hearing;
- (2) The grant or denial of Supersedeas;
- (3) Representation and continuances; and
- (4) The procedure for interpreters (if requested).

(d) *Notice to persons other than appellant.* Service of the written hearing notice upon the horse owner, corporation, partnership, limited liability company or other entity who has an interest in the horse, shall be deemed proper and complete when service of the written hearing notice is made upon the licensed trainer of record. In accordance



with all other duties and obligations of a licensed trainer, it shall be the sole duty, responsibility and obligation of the licensed trainer to inform or otherwise notify the horse's owner or ownership entity, as applicable, regarding an upcoming proceeding in which the owner or ownership entity interests in the horse in question may be impacted.

**§ 179.56. Failure to attend hearing.**

(a) If, at the time and place scheduled for hearing, parties who have received due notice are not in attendance, whether in person or by counsel, the appeal shall be dismissed and the underlying decision shall be entered by and upon default.

(b) In accordance with § 179.7(c) (relating to request for hearing by applicant or licensee), to offset administrative costs associated with the proceeding, the Commission may retain a portion or all of the appeal bond posted by the appellant for failure to appear.

**§ 179.57. Waiver of hearing.**

A party to a proceeding may waive the right to a hearing before the Commission by filing with the Bureau Directors and the Hearings and Appeals Docket Clerk a written Notice of Waiver of Hearing, with copies to the presiding officer and other parties. A waiver shall constitute an admission of all the underlying charges or matters contained in the ruling or determination appealed from and shall be deemed an acceptance of the underlying action. The Hearing and Appeals Docket Clerk shall cancel the proceeding and close out the matter on the hearing calendar. This section supersedes 1 Pa. Code § 35.101 (relating to waiver of hearing).

**§ 179.58. Consolidation.**

(a) The Commission, the Hearings and Appeals Docket Clerk or the presiding officer, with or without motion, may consolidate proceedings involving a common question of law or fact.

(b) The section supersedes 1 Pa. Code § 35.45 (relating to consolidation).

**§ 179.59. Presiding officers.**

(a) When evidence is to be taken in a hearing, the Commission's duly appointed presiding officer may conduct the hearing in the absence of the Commission itself. A person presiding at a hearing may not consult a party on any fact in issue unless upon notice and opportunity for all parties to participate.

(b) A presiding officer shall have the power and authority to:

(1) Regulate the course and conduct of hearings, including the scheduling of continuances thereof, and the recessing, reconvening and the adjournment thereof, unless otherwise provided by the Commission.

(2) Administer oaths and affirmations and compel the attendance of witnesses.

(3) Issue subpoenas authorized by law.

(4) Rule upon the admissibility of evidence, offers of proof and receive evidence.

(5) Schedule and conduct pre-hearing conferences as set forth in § 179.60 (relating to prehearing and other conferences).

(6) Dispose of preliminary procedural matters.

(7) Examine witnesses.

(8) Submit proposed findings of facts and conclusions of law to the Commission in accordance with this subpart.

(9) Take other action appropriate to the discharge of their duties as may be designated by the Commission and authorized by the act.

(c) Presiding officers will conduct fair and impartial hearings and maintain order.

(d) If parties or counsel engage in disrespectful, disorderly or contumacious language or conduct in connection with any hearing, the presiding officer may take action as set forth in § 179.64 (relating to contemptuous conduct).

(e) This section supersedes 1 Pa. Code §§ 35.185—35.190 (relating to presiding officers).

**§ 179.60. Prehearing and other conferences.**

(a) A prehearing conference may be scheduled at the sole discretion of the Commission or the presiding officer, if in the opinion of the Commission or the presiding officer, the matter warrants a conference. The Commission or a presiding officer may, upon petition, also schedule a prehearing conference at the request of one party and by agreement of the parties.

(b) When the Commission or the presiding officer directs that a prehearing conference be held, all parties shall appear at the time and place designated. Notice of the time and place of the conference will be given to all parties. If time is of the essence, a prehearing conference may be conducted by means of telephone conference call.

(c) Any of the following matters may be considered at a prehearing conference:

(1) Discuss the possibilities for settlement of the underlying matter or proceeding, or both.

(2) The amount of hearing time which will be required to dispose of the proceeding.

(3) Designating parties.

(4) Setting the order of procedure at a hearing.

(5) Resolve procedural matters that may aid in expediting the orderly conduct and disposition of the proceeding and the furtherance of the public interest.

(d) Failure of a party to attend the conference, after being served with notice of the time and place thereof, without good cause shown, shall constitute a waiver of all objections to the order, ruling or underlying matter appealed.

(e) The presiding officer shall record the action taken at the prehearing conference and commit to writing the agreed upon disposition of the previous matters.

(f) Subsections (a)—(e) supersede 1 Pa. Code §§ 35.111—35.116 (relating to prehearing conferences).

**§ 179.61. Hearing procedure.**

(a) *Order of hearing.* In a proceeding, the party having the burden of proof shall generally go forward, open and close, unless otherwise directed by the presiding officer. The order of testimony may be modified at the discretion of the hearing officer. In determining this order, the presiding officer shall take into consideration the right of the respective party to present the case or defense by oral or documentary evidence, to submit rebuttal evidence and to conduct a cross-examination as may be required for a full and true disclosure of the facts.

(1) In proceedings when the evidence is peculiarly within the knowledge or control of another party, the

order of presentation set forth in subsection (a) may be varied by the presiding officer.

(2) Intervenors shall follow the party on whose behalf the intervention is made. If the intervention is not in support of an original party, the presiding officer will designate at what stage the intervenor will be heard.

(3) The presiding officer may direct the order of parties for purposes of cross-examination. Subsection (a) supersedes 1 Pa. Code § 35.125 (relating to order of procedure).

(b) *Burden of proof.* Preponderance of the evidence shall be the standard and shall mean that the evidence demonstrates a fact is more likely to be true than not. Proponents of any issue shall have the burden of proof thereof.

(c) *Evidence.* Neither the Commission, nor the presiding officer will be bound by the technical rules of evidence and all relevant, material and competent evidence may be received in either oral or documentary form, provided, that the Commission or the presiding officer acting hereunder may exclude evidence if:

- (1) It is repetitious or cumulative.
- (2) Its probative value is outweighed by:
  - (i) The danger of unfair prejudice;
  - (ii) Confusion of the issues; or
  - (iii) Considerations of undue delay or waste of time.
- (3) It is hearsay evidence.

(d) *Hearsay evidence.* Hearsay evidence properly objected to is not competent evidence to support a finding of the Commission. However, hearsay evidence admitted without objection will be given its natural probative effect and may support a finding by the Commission, if it is corroborated by other competent evidence in the record.

(e) *Commission public documents or business records.* Tape recordings of Judges' or Stewards' hearings, as well as of recordings of investigative interviews or similar proceedings may be received in evidence, if the recordings were made a part of the underlying Judges' or Stewards' evidentiary record and are relevant and material to the appeal. Investigative reports of Commission investigative or licensing staff, racetrack security personnel or of authorized agents of the Thoroughbred Racing Protective Bureau shall be received by the presiding officer and deemed to be a part of the official records of the Commission in a relevant proceeding, but the affected party shall have the right to examine the same insofar as they may pertain to matters directly and immediately in issue.

(f) *Control of evidence.* The Commission or the presiding officer shall have all necessary authority to control the receipt of evidence, including ruling on the admissibility of evidence, confining the evidence to the issues in the proceedings and impose, where appropriate, limitations to the number of witnesses to be heard, the time and scope of direct and cross-examinations and the production of further evidence.

(g) *Motion and objections.* Motions and objections made during a hearing shall be stated orally and shall be included in the stenographic record of the hearing.

(h) *Cross-examination.* Parties shall be entitled to cross-examine and to present rebuttal evidence as may be necessary for a full and fair hearing, but shall be limited to matters on direct and at the discretion of the Commission or presiding officer.

(i) Subsection (c) supersedes 1 Pa. Code § 35.161 (relating to form and admissibility of evidence); Subsection (e) supersedes 1 Pa. Code §§ 35.165 and 35.166 (relating to public documents; and prepared expert testimony); Subsection (f) supersedes 1 Pa. Code § 35.162 (relating to reception and ruling on evidence).

**§ 179.62. Commission official notice.**

(a) Official notice or judicial notice of facts may be taken by the Commission or the presiding officer on its own or upon request by a party, but only if the party supplies the necessary information.

(b) The Commission or the presiding officer may notice a fact that is not subject to reasonable dispute because it:

- (1) Is generally known by the Commission or is within its jurisdiction; or
- (2) Can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.

(c) The Commission or the presiding officer may take official or judicial notice at any stage of the proceeding.

(d) On timely request, a party is entitled to be heard on the propriety of taking judicial notice and the nature of the fact to be noticed.

(e) Subsections (a)—(d) supersede 1 Pa. Code § 35.173 (relating to official notice of facts).

**§ 179.63. Representation before the Commission.**

(a) *Appearance in person.* An individual who is a party in a proceeding before the Commission or presiding officer may represent himself. Attendance at the proceeding without an attorney will be deemed a waiver of this privilege.

(1) A party, other than an individual appearing on his own behalf, in an adversarial proceeding before the Commission shall be represented by an attorney authorized to appear before the Commission in accordance with subsection (b).

(2) Subsection (a) supersedes 1 Pa. Code § 31.21 (relating to appearance in person).

(b) *Appearance by attorney.* A party in a proceeding before the Commission or presiding officer who elects to be represented by an attorney or is otherwise required to be represented by an attorney in the proceeding, shall be represented by:

- (1) An attorney at law admitted to practice before the Pennsylvania Supreme Court.
- (2) An attorney admitted to practice before the highest court of a jurisdiction other than this Commonwealth which permits attorneys licensed in this Commonwealth to practice before its courts and agencies.
- (3) An attorney authorized in accordance with subsection (c) to appear in connection with the proceeding.

(c) *Admission Pro Hac Vice.* An attorney admitted to practice before the highest court of a jurisdiction other than this Commonwealth which does not permit attorneys licensed in this Commonwealth to appear before its courts and agencies may, at the discretion of the Commission or the presiding officer, be authorized to appear in connection with a particular proceeding. The Commission or the presiding officer will determine whether to grant the authorization upon the filing of a motion by an attorney admitted to practice law before the Pennsylvania Supreme Court and in good standing with the Court, which contains the information required to satisfy the written notice provision of Pa.B.A.R. 301 (relating to admission

pro hac vice) and provided that the attorney filing the motion shall be and remain the attorney of record in the proceeding and further provided that both the attorney of record and the attorney admitted under this subsection shall both sign all documents submitted or filed in connection with the proceeding.

(d) Subsections (b) and (c) supersede 1 Pa. Code § 31.22 (relating to appearance by attorney).

(e) *Other representation prohibited at hearings.* Participants, individuals, partnerships, associations, corporations or governmental entities may not be represented at a hearing before the Commission or presiding officer except, as provided in subsections (b) and (c) or as otherwise permitted by the Commission in a specific case.

(f) Subsection (e) supersedes 1 Pa. Code § 31.23 (relating to other representation prohibited at hearings).

**§ 179.64. Contemptuous conduct.**

(a) Contemptuous conduct by any person at a hearing before the Commission or a presiding officer will be grounds for exclusion from the hearing and for summary suspension without a hearing for the duration of the hearing. Further action may be taken by the Commission imposing a temporary or permanent denial of the privilege of appearing or practicing before the Commission.

(b) Subsection (a) supplements 1 Pa. Code § 31.27 (relating to contemptuous conduct).

**§ 179.65. Suspension and disbarment.**

(a) The Commission may deny, temporarily or permanently, the privilege of appearing or practicing before the Commission to a person who is found by the Commission, after notice and opportunity for hearing on the matter, to have done one or more of the following:

(1) Lacked the requisite qualifications to represent others.

(2) Engaged in unethical, contemptuous, disruptive or improper conduct before the Commission or presiding officer.

(3) Repeatedly failed to follow Commission directives or orders.

(4) Repeatedly failed to follow Commission rules and regulations in the representation of the client before the Commission or presiding officer.

(b) For the purposes of subsection (a), practicing before the Commission includes the following:

(1) Transacting business on behalf of licensees with the Commission.

(2) The preparation of a statement, opinion or other paper by an attorney, accountant, engineer or other expert, filed with the Commission in a pleading or other document with the consent of the attorney, accountant, engineer or other expert.

(3) Appearances at a hearing or other proceeding or public meeting before the Commission.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 31.28 (relating to suspension and disbarment).

**§ 179.66. Briefs and oral argument.**

(a) *Briefs.* Unless waived by the parties, at the close of the taking of testimony in the hearing, the presiding officer shall provide the parties with the opportunity to submit briefs. The presiding officer shall fix the time for the filing and service of briefs, giving due consideration to the nature of the proceeding, the parties involved, the

magnitude of the record and the complexity of the issues involved. Copies of the brief shall be served with the presiding officer, the Appeals and Hearings Clerk and upon the respective parties.

(b) *Content and form of briefs.* Briefs shall contain the following:

(1) A concise statement of the case.

(2) Reference to the exact pages of the record or exhibits where the evidence relied upon by the filing party appear.

(3) An argument preceded by a summary. The argument shall, to the extent possible, address all issues raised by the relief sought and the evidence adduced at the hearing.

(4) As directed by the presiding officer, the brief shall also contain:

(i) A statement of the questions involved.

(ii) Proposed findings of fact with references to the transcript pages or exhibits where evidence appears, together with proposed conclusions of law.

(iii) Proposed paragraphs identifying the relief sought.

(c) *Untimely briefs.* Briefs not filed and served on or before the date fixed by the presiding officer will not be accepted for review or consideration by the presiding officer or the Commission.

(d) *Oral Argument.* No oral argument shall be heard by the Commission or presiding officer at any time.

(e) *No exceptions to be filed.* No party shall be entitled to file exceptions to a proposed adjudication and order of the Commission or of the presiding officer. This subsection supersedes 1 Pa. Code §§ 35.211—35.214 (relating to exceptions to proposed reports).

(f) Subsections (a)—(d) supersede 1 Pa. Code §§ 35.191 and 35.192 (relating to proceedings in which briefs are to be filed; and content and form of briefs).

**§ 179.67. Transcript.**

Hearings shall be stenographically recorded and a verbatim transcript of the record will be prepared as soon as practicable after the hearing. The parties may obtain a copy of the transcript directly from the court reporting service. This section supersedes 1 Pa. Code §§ 35.131 and 35.133 (relating to recording of proceedings; and copies of transcripts).

**§ 179.68. Contents and close of the record.**

(a) The record shall be considered closed upon receipt of the transcript of the record and briefs, if any, and the hearing shall be deemed concluded at that time. After the record is closed, additional matters may not be relied upon or accepted into the record unless allowed for good cause shown by the presiding officer or the Commission upon motion.

(b) The Commission's record shall consist of a transcript of the testimony and exhibits of record, the party's briefs, if submitted, together with any other the papers, written motions and requests filed in the proceedings and relevant official records.

(c) Subsections (a) and (b) supersede 1 Pa. Code §§ 35.231 and 35.232 (relating to reopening on application of party; and reopening by presiding officer).

**§ 179.69. Proposed adjudication of the presiding officer.**

(a) The presiding officer or other Commission designated person shall prepare a proposed adjudication and



order as a decision of the Commission. The proposed written adjudication shall include:

(1) Findings and conclusions, as well as the reasons or basis therefore, for all the material issues of fact, law or discretion presented on the record.

(2) The appropriate statutory provision, regulation, order, sanction, relief or denial thereof.

(3) Facts officially noticed under § 179.62 (relating to Commission official notice) relied upon in the decision.

(4) Previous adjudications or matters which the Commission relies upon as precedent.

(b) The presiding officer or designated person shall transmit the proposed adjudication to the Hearings and Appeals Docket Clerk as soon as practicable, unless directed to expedite the matter by the Commission.

(c) The proposed written adjudication and order shall not be made available to the parties, including Commission counsel or intervenors until the Commission has reviewed, considered and properly voted upon the adjudication under § 179.70 (relating to Commission decisions).

**§ 179.70. Commission decisions.**

(a) *Decisions.* The Commission shall consider and vote upon a proposed adjudication and order at its public meeting in accordance with the voting provisions of the act and Chapter 173 (relating to Commission operations and organization—temporary regulations) of the regulations. The final order and adjudication shall be based solely upon a review and consideration of the entire record and shall be supported by reliable, probative evidence contained in the record. The Commission may adopt, modify or reject some or all of the proposed adjudication, remand all or part of the matter to the presiding officer for the taking of additional evidence or clarification of issues.

(b) *Single signature.* A final adjudication and order may be signed by the Chairman of the Commission or by any other delegated Commissioner on behalf of the entire Commission. Minority opinions regarding the final adjudication may be submitted and these shall become part of the record.

(c) The final adjudication and order shall be served upon the all parties and intervenors or their counsel personally, by regular United States mail or by certified mail by the Hearings and Appeals Docket Clerk. If service is made by mail, the date of mailing will be the date of service for purposes of a subsequent appeal.

(d) Subsections (a)—(c) supersede 1 Pa. Code § 35.226 (relating to final orders).

**§ 179.71. Reopening of record.**

(a) *Petition to reopen.* At any time after the record is closed, but before a final decision is issued, a party may file a petition with the Commission or the presiding officer for the purpose of taking additional evidence. A petition to reopen must set forth clearly the fact claimed to constitute grounds requiring reopening of the proceeding, including material changes of fact or of law alleged to have occurred since the conclusion of the hearing.

(b) *Responses.* Within 10 days following the service of the petition, another party may file an answer thereto.

(c) *Action of petition.* As soon as practicable after the filing or responses to the petition, the presiding officer or the Commission shall grant or deny the petition based upon a review of the averments set forth in the petition.

(d) The Commission may, at any time, in its discretion and upon its own motion reopen a hearing upon due notice to the parties.

(e) Subsections (a)—(d) supersede 1 Pa. Code §§ 35.231—35.233 (relating to reopening of record).

**§ 179.72. Rehearing or reconsideration.**

(a) A party to a proceeding may file an application for rehearing or reconsideration by filing a petition within 15 days after the final order of the Commission.

(b) Filing a petition for rehearing or reconsideration does not toll or stay the 30-day appeal period.

(c) The petition must state concisely the alleged errors in the adjudication or other order of the Commission. If a final order or other order of the Commission is sought to be vacated, reversed or modified by reason of matters that have arisen since the hearing and decision or order, or by reason of a consequence that would result from compliance therewith, the matters relied upon by the petitioner must be set forth in the petition.

(d) Answers to petitions for rehearing or reconsideration will not be entertained by the Commission. If the Commission grants the rehearing or reconsideration, an answer may be filed by a participant within 15 days after the issuance of the order granting rehearing or reconsideration. The response will be confined to the issues upon which rehearing or reconsideration has been granted.

(e) If the Commission does not act upon the petition for rehearing or reconsideration within 30 days after it is filed, the petition will be deemed to have been denied.

(f) Subsections (a)—(e) supersede 1 Pa. Code § 35.241 (relating to application for rehearing or reconsideration).

**§ 179.73. Appeals.**

(a) Within 30 days after the receipt of a written adjudication or the entry of a final order or decision of the Commission, a party shall have the right to appeal therefrom to the Commonwealth Court under 42 Pa.C.S. § 763 (relating to direct appeals from government agencies).

(b) The filing of an appeal with the Commonwealth Court will not stay enforcement of the decision or final order of the Commission unless a separate stay is obtained from the court upon application in accordance with the Rules of Appellate Procedure or the Commission grants a stay prior to the filing of the appeal upon request.

**Subchapter D. EJECTION MATTERS EXPEDITED HEARING PROCEDURES**

Sec.	
179.91.	General purpose.
179.92.	Definitions.
179.93.	Written ejection notices.
179.94.	Request for a hearing.
179.95.	Notice and location of hearing.
179.96.	Conduct of hearing.
179.97.	Appeals to Commonwealth Court.
179.98.	Disinterested party status on appeal to Commonwealth Court.

**§ 179.91. General purpose.**

The sections set forth below are intended to govern the expedited practice and procedures before the Commission solely regarding the ejection from or the refusal of admission to a licensed racetrack facility or a racetrack enclosure. An ejection or refusal of admission are governed by section 9326(a) of the act (relating to admission to racetrack). The following sections are intended to supersede the applicability of 1 Pa. Code Part II (relating

to General Rules of Administrative Practice and Procedure) to practice and procedure before the Commission.

**§ 179.92. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Adjudication*—The written order, decree, decision, determination or ruling by the Commission affecting the personal or property rights, privileges, immunities, duties, liabilities or obligations of the parties to the proceeding in which the adjudication is made.

*Commissioner or Presiding Officer*—A member of the Commission or other person designated by the Commission to conduct the proceeding.

*Decision*—The determination from the bench by the Commission affirming, reversing or modifying the ejection or refusal, or both, of admission action immediately upon the closing of the evidentiary record of the proceeding.

*Ejectee*—An individual ejected from or refused admission to, or both, the racetrack enclosure under section 9326 of the act.

*Ejection or Refusal of Admission*—The action taken by a licensed racing entity to refuse admission to the grounds of the racetrack enclosure or the physical removal of a licensee from the grounds of the racetrack enclosure as provided by section 9326 of the act (relating to admission to racetrack).

*Ejection Notice*—Written notification issued by a licensed racing entity to an individual licensed by the Commission of the ejection or refusal, or both, of admission of that individual from the racetrack enclosure, the enumerated reasons for this action and the term of ejection.

*Licensed Racing Entity*—A person that has obtained a license to conduct live thoroughbred or harness horse race meetings respectively with pari-mutuel wagering from the Commission.

*Party*—A person who is named in or admitted to the proceeding and who has a direct interest in the subject matter of the proceeding.

*Term of ejection*—The specific period of time set forth by the licensed racing entity in the written notice of ejection/denial of admission for which the ejectee is prohibited from entering the licensed racetrack facility.

**§ 179.93. Written ejection notices.**

(a) A licensed racing entity may refuse admission to or eject, or both, from the racetrack enclosure operated by the licensed racing entity, any person licensed by the Commission and employed at an occupation at the racetrack, if the person's presence is deemed detrimental to the best interests of horse racing and after citing the reasons for the determination in writing.

(b) The written notice shall also advise the ejectee of that person's right to request a hearing before the Commission no later than 48 hours following receipt of the written ejection notice. The written ejection notice shall include the address of the Commission and the address of the licensed racing entity.

(c) Failure by the licensed racing entity to provide written notice of the refusal of admission or ejection of the licensed individual shall be grounds for the Commission to issue a show cause order requiring a response and justification by the licensed racing entity.

**§ 179.94. Request for a hearing.**

(a) The person ejected or refused admission to the racetrack enclosure may request a hearing before the Commission, if the request:

(1) Is in writing;

(2) Is received by the Bureau Director in the Executive Office of the Commission (Office of the Clerk) within 48 hours of receipt of the written notice of ejection or refusal of admission, or both; and

(3) Sets forth a concise statement of all grounds upon which a hearing is requested.

(b) Each Bureau Director shall review the timeliness and appropriateness of the request for a hearing. Any appeal deemed untimely shall be dismissed.

(c) A request for a stay, if any, shall be granted by the respective Bureau Director, unless the Bureau Director finds that the stay is not in the best interest of racing or presents a threat to public safety. Any stay granted shall continue until the time that the Commission renders a final written decision in the matter.

(1) An ejectee who requests a stay must provide notice of the request to the licensed racing entity that issued the notice of ejection/refusal of admission and provide proof of service of the notice to the respective Bureau Director. No stay request may be granted until 24 hours after the Bureau Director's receipt of proof of service under this paragraph.

(2) The licensed racing entity may submit a written answer and supporting documentation in opposition to the request for a stay to the Bureau Director.

(3) All written notices, proof of service or answers to stay referenced in this subsection may be electronically filed with the Bureau Director after the initial appeal request.

(d) No appeal shall be granted or heard regarding the purported denial of horse entries by a licensed racing entity.

**§ 179.95. Notice and location of hearing.**

(a) All ejection or refusal of admission hearings shall be scheduled for and conducted at the next duly scheduled public meeting of the Commission subject to the notice provision under subsection (b). The hearing shall take place at the location of the Commission's public meeting. If scheduling the hearing for the next duly scheduled public meeting of the Commission does not afford the appropriate notice, the hearing shall be scheduled for the following duly scheduled public meeting.

(b) The parties to the proceedings shall be provided at least 5 days written notice of the specific location, date and time of the Commission public meeting at which the ejection hearing will take place.

(c) Hearings will not be continued except for compelling reasons, as determined by the Commission, in its sole discretion. Any request for a continuance must be submitted in writing setting forth the compelling reasons to the Commission.

**§ 179.96. Conduct of hearing.**

(a) The Commission shall preside over the course and conduct of the matter directly. The Commission may, however, in its discretion, designate or appoint a Commissioner or other qualified person to serve as the presiding officer in the particular matter.

- (b) Hearings may provide for:
  - (1) Receipt of sworn testimony.
  - (2) Receipt of all relevant oral or documentary evidence.
  - (3) Opportunity for parties to be heard.
  - (4) A complete evidentiary record.
- (c) The Commissioners or the presiding officer, or both, shall have the power and authority to do the following:
  - (1) Regulate the course of the hearing, including processing, reconvening or adjournment thereof.
  - (2) Administer oaths and affirmations.
  - (3) Issue subpoenas.
  - (4) Rule upon offers of proof and receive evidence.
  - (5) Dispose of motions made during the hearing to dismiss the proceedings or other motions which involve the final determination of the proceedings.
  - (6) Take any other action necessary and appropriate to discharge their duties as may be designated by the Commission.
  - (7) Affirm, reverse or modify the term of ejection based upon the underlying factors for the ejection and the evidence of record.
- (d) All ejection/refusal of admission hearings shall be stenographically recorded.
- (e) Given the expedited nature of the proceeding and limited duration of a stay, if applicable, the parties shall not be afforded the opportunity to submit written briefs, except upon extraordinary circumstances presented and in the Commissioners' sole discretion.
- (f) An oral decision and order shall be made and entered immediately by the Commission upon the closing of the evidentiary record as introduced at the hearing.
- (g) Within 15 days from the issuance of the Commission's oral decision and receipt of the hearing transcript, a written adjudication supporting its decision and order shall be issued to the parties. The Commission's evidentiary record will be closed upon the receipt of the hearing transcript.
- (h) Any stay of enforcement previously granted by the Commission under § 179.34(c) (relating to votes of Judges or Stewards) shall terminate upon the issuance of the Commission's written adjudication.
- (i) This section supersedes 1 Pa. Code §§ 35.185—35.190 (relating to presiding officers) and 1 Pa. Code Chapter 35, Subchapter B (relating to hearings and conferences).

**§ 179.97. Appeals to Commonwealth Court.**

- (a) A party may appeal the final order and written adjudication of the Commission to the Commonwealth Court within 30 days of the receipt of the written determination in accordance with the provisions of Rules of Appellate Procedure.
- (b) The filing of a Petition for Review with the Commonwealth Court will not automatically stay enforcement of the decision or final order of the Commission unless a separate stay is obtained from the court upon application in accordance with the Rules of Appellate Procedure.

**§ 179.98. Disinterested party status on appeal to Commonwealth Court.**

The Commission is not an aggrieved party as contemplated by 2 Pa.C.S. § 702 (relating to Administrative

Agency Law) and shall be deemed a disinterested party in ejection or refusal of admission matters subsequently appealed, by either party, to the Commonwealth Court under § 179.97(a) (relating to appeals to Commonwealth Court). In accordance with Pa.R.A.P. 1513(a), as a disinterested party, the Commission shall not be named in the caption or listed as the Respondent on Appellant's Petition for Review.

**Subchapter E. DOCUMENTARY HEARINGS**

- Sec.
- 179.101. Expedited documentary hearing.
  - 179.102. Election of documentary hearing.
  - 179.103. Waiver of oral hearing.
  - 179.104. Documentary hearing procedures.
  - 179.105. Evidentiary documents.
  - 179.106. Verification.

**§ 179.101. Expedited documentary hearing.**

(a) *Purpose.* To control administrative costs for all parties, to expedite and streamline the formal hearing process and to promote judicial economy, an individual who appeals a decision of the Judges or Stewards regarding certain racing matters may waive the right to an oral hearing as provided in Subchapter C (relating to Commission hearings) and elect to have the matter proceed under the expedited process and resolved solely by the submission of documents.

(b) *Matters for documentary hearing.* Among other racing related matters, the expedited documentary hearing may be utilized by an appellant or party when time is of the essence or where the health, safety and welfare of a horse is involved, including but not limited to claiming disputes, horse transfers and other similar matters.

**§ 179.102. Election of documentary hearing.**

(a) An individual who elects to proceed under the expedited documentary hearing process, instead of a formal oral hearing, must provide written notice to the Bureau Directors of the individual's decision to proceed under the expedited hearing process within 2 days of the approval of the initial appeal request. A written waiver of oral hearing, in accordance with § 179.103 (relating to waiver of oral hearing), must be submitted along with the individual's notification of election to proceed under the expedited documentary hearing procedure.

(b) If there is more than one party in the matter, all parties must agree to proceed under the expedited documentary hearing process and must provide the necessary waiver form. If there is no agreement by the parties, the matter will proceed under the Commission's oral hearing process set forth in Subchapter C (relating to Commission hearings).

**§ 179.103. Waiver of oral hearing.**

(a) The appellant and other parties, if applicable, shall execute a written waiver specifically acknowledging that:

- (1) They are knowingly and voluntarily proceeding under the expedited documentary hearing process;
- (2) They will timely submit all necessary documents or records properly sworn to or affirmed and based upon personal knowledge; and
- (3) That as a condition of proceeding through the expedited documentary hearing process, they will abide by the decision of the Bureau Director and no appeal will be taken to the Commission or to a subsequent court.

(b) The appellant and other parties must promptly submit the fully executed waiver form to the respective Bureau Director.



(c) Subsections (a)—(b) supersede 1 Pa. Code § 35.101 (relating to waiver of hearing).

**§ 179.104. Documentary hearing procedures.**

(a) The appellant and other parties, if applicable, shall submit to the Bureau Director a complete package of documents setting forth the factual or legal, or both, basis to support their position, including, but not limited to records, pleadings, witness affidavits, supporting briefs and legal argument.

(b) The Bureau Director's review of the underlying issues shall be limited solely to a review of the documentary evidence submitted by the parties to the hearing and the underlying determination by the Judges/Stewards. No in-person testimony or depositions shall be taken in these proceedings.

(c) Once the supporting documentation has been submitted to the Bureau Director, an appellant or a party may not communicate directly or indirectly, with the Bureau Director in connection with any issue of law or any matter of fact relating to the matter in dispute.

(d) The Bureau Director shall issue a limited written decision in the form of a ruling within 5 days of the receipt of the documents from the appellant or parties. The ruling shall briefly set forth the facts, conclusion and the legal basis for the Bureau Director's decision.

(e) The Bureau Director shall provide a copy of the applicable ruling to the appellant or parties in the matter.

**§ 179.105. Evidentiary documents.**

(a) The records, pleadings, briefs, affidavits and other documents to be submitted to the Bureau Director shall be signed and verified by the appellant, the parties or their respective counsel as set forth below.

(b) The signature of the person subscribing a document filed with the Commission constitutes a certificate by the individual that:

(1) The person has read the document being subscribed and filed and knows the contents thereof.

(2) The document has been subscribed and executed in the capacity specified upon the document with full power and authority to do so, if executed in a representative capacity.

(3) The document is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law, to the best of the person's knowledge, information and belief formed after reasonable inquiry.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 33.11 (relating to execution).

**§ 179.106. Verification.**

(a) Pleadings or other documents containing an averment of fact not appearing of record in the underlying action or containing a denial of fact shall be personally verified by the appellant or party thereto. Verification means a signed, written statement of fact supported by oath or affirmation or made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities). If verification is required, notarization is not necessary.

(b) The verification form should comply substantially with the following:

**VERIFICATION**

I, \_\_\_\_\_, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief). I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Date: \_\_\_\_\_  
(Signature)

(c) When an affidavit is used, the form should comply substantially with the following:

**AFFIDAVIT**

I, \_\_\_\_\_, being duly sworn do hereby affirm according to law, depose and say that the facts above set forth are true and correct to the best of my knowledge, information and belief.

\_\_\_\_\_  
(Signature of affiant)

Sworn and subscribed before me this \_\_\_\_\_  
day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
(Notary Public)

(d) An individual who executes a pleading or other document knowing that it contains a false statement and who causes it to be filed with the Bureau Director or Commission shall be subject to prosecution of a misdemeanor of the second degree in violation of 18 Pa.C.S. § 4904(a).

(e) Subsections (a)—(d) supersede 1 Pa. Code § 33.12 (relating to verification).

**Subpart B. LICENSING**

<b>Chap.</b>	
<b>181.</b>	<b>LICENSED RACING ENTITIES—TEMPORARY REGULATIONS</b>
<b>183.</b>	<b>SECONDARY PARI-MUTUEL ORGANIZATIONS—TEMPORARY REGULATIONS</b>
<b>185.</b>	<b>OCCUPATIONAL LICENSES—TEMPORARY REGULATIONS</b>
<b>187.</b>	<b>RACING VENDORS AND TOTALISATORS—TEMPORARY REGULATIONS</b>
<b>189.</b>	<b>NONPRIMARY LOCATIONS—TEMPORARY REGULATIONS</b>

**CHAPTER 181. LICENSED RACING ENTITIES—TEMPORARY REGULATIONS**

<b>Sec.</b>	
181.1.	General provisions.
181.2.	Number of licensed racing entities.
181.3.	Race meeting license required.
181.4.	Race meeting application and procedures.
181.5.	Conditions for approval.
181.6.	Commission action on horse race meeting licenses.
181.7.	Denial, suspension or revocation.
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**ANNUAL OR PRE-MEET SUBMISSIONS**

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**RACETRACK FACILITIES—STANDARD BRED**

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- 181.51. Thoroughbred facilities and equipment.
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- 181.58. Starting gates.
- 181.59. Distance markers.
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- 181.62. Barns.

**OPERATIONS**

- 181.71. Test barn.
- 181.72. Enforcement.
- 181.73. Licensed racing entity security personnel.
- 181.74. Admission to premises and security.
- 181.75. Admission and removal of horses.
- 181.76. Fire prevention.
- 181.77. Admission of minors.
- 181.78. Health certificate.

**§ 181.1. General provisions.**

(a) *Purpose.* The purpose of this part is to set forth the requirements for individuals seeking to obtain a license to conduct horse race meetings, describe the duties, responsibilities, facilities, equipment and operations of the license racing entities, consistent with the provisions of section 9318 of the act (relating to licenses for horse race meetings).

(b) *Knowledge of rules.* All licensed racing entities, their directors, officers, officials and employees are responsible for the conduct of their horse race meeting, including but not limited to all live racing, simulcasted racing and pari-mutuel wagering activities within their facilities and racetrack enclosure.

(c) *General duty.* All licensed racing entities, their directors, officers, officials and employees shall be familiar with, abide by and enforce the provisions of the act and the rules, regulations and orders of the Commission or the Board of Judges and Board of Stewards.

(d) *Exemption.* A licensed racing entity may request an exemption from a requirement in this chapter to utilize new technology or innovative construction or design of the racetrack facilities. The Commission may grant an exemption if the Commission determines that:

- (1) the licensed racing entity's proposal substantially satisfies the purpose of the requirement; and
- (2) the exemption is in the best interests of the racing industry, the citizens of this Commonwealth and health, safety and welfare of horses.

**§ 181.2. Number of licensed racing entities.**

(a) *Standardbred horse racing.* No more than five persons shall be licensed to conduct a horse race meeting. No person licensed under this chapter to conduct standardbred horse racing with pari-mutuel wagering shall be licensed to conduct thoroughbred horse racing with pari-mutuel wagering.

(b) *Thoroughbred horse racing.* No more than six persons shall be licensed by the Commission to conduct a horse race meeting. No person licensed under this chapter to conduct thoroughbred horse racing with pari-mutuel

wagering shall be licensed to conduct standardbred horse racing with pari-mutuel wagering.

**§ 181.3. Race meeting license required.**

In accordance with the provisions of the act, no person shall conduct or operate a horse race meet with pari-mutuel wagering within this Commonwealth without first obtaining the appropriate license from the Commission. The purchase of a licensed racing entity, the change of ownership in the licensed racing entity or a transfer of a horse race meeting license shall be reviewed and approved by the Commission in accordance with the provisions of the Racing Act and these regulations.

**§ 181.4. Race meeting application and procedures.**

(a) Applications to conduct horse race meetings shall be in the form prescribed by the Commission and must contain information as required by the provisions of the Racing Act or as required by the Commission. The Commission may require the following forms or documentation:

- (1) Entity Application and Organizational Chart;
- (2) Multi-Jurisdictional History Disclosure Forms for applicable Directors, Officers and Principals;
- (3) Breed specific occupational license applications;
- (4) Recent fingerprints; or
- (5) Any other applicable information upon which to make a suitability determination.

(b) A license to conduct horse race meetings shall be issued for a period of 3 years.

(c) A licensed racing entity shall have the privilege to conduct a horse race meeting at which pari-mutuel wagering is permitted. A license to conduct a horse race meeting shall not be a property right and may not be used as collateral or be encumbered.

(d) The Commission may revoke or suspend the license of a licensed racing entity if the Commission finds that the licensed racing entity, or its directors, owners, officers, managers or agents, have not complied with the act and the regulations promulgated thereunder.

(e) A licensed racing entity may not sell, change ownership or transfer a license without the specific prior approval of the Commission as set forth in section 9357 of the act (relating to transfers of licenses).

**§ 181.5. Conditions for approval.**

Each horse race meeting license, if granted, shall be issued and remain in effect so long as the licensed racing entity, its subsidiaries, affiliates, agents or vendors comply with each condition, rule, regulation or order of the Commission and the provisions of the act, including the following conditions:

- (1) A horse race meeting at which pari-mutuel wagering and racing related activities is conducted shall be regulated by the Commission.
- (2) The conduct of pari-mutuel wagering and racing related activities shall also be regulated by the Department of Revenue.
- (3) The licensed racing entity shall print in its racing programs the procedure for filing a complaint with the Commission.

**§ 181.6. Commission action on horse race meeting licenses.**

The following shall apply:

(1) The Commission shall be prohibited from issuing a license to conduct a horse race meeting at which pari-mutuel wagering is permitted to an individual or applicant or an owner, officer, director or manager of the applicant who has been convicted of:

- (i) A felony in any jurisdiction.
- (ii) A misdemeanor gambling offense in any jurisdiction, unless 15 years has elapsed from the date of conviction.
- (iii) Fraud or misrepresentation in any jurisdiction related to horse racing or horse breeding, unless 15 years has elapsed from the date of conviction.
- (iv) An offense under 18 Pa.C.S. Subchapter B, §§ 5531—5561 (relating to cruelty to animals) (as amended).
- (v) An offense related to fixing or rigging horse races, including 18 Pa.C.S. § 4109 (relating to rigging publicly exhibited contest) or § 7102 (relating to administering drugs to race horses), or any similar crime in another jurisdiction, unless the conviction has been overturned on appeal under the laws of the jurisdiction of the original finding or a pardon has been issued.

(2) Following expiration of any period applicable to an applicant under paragraph (1)(ii) or (iii), in determining whether to issue a horse racing license to an applicant, the Commission shall consider the following factors:

- (i) The individual or a principal of the applicant's position with the applicant.
  - (ii) The nature and seriousness of the offense or conduct.
  - (iii) The circumstances under which the offense or conduct occurred.
  - (iv) The age of the applicant when the offense or conduct occurred.
  - (v) Whether the offense or conduct was an isolated or a repeated incident.
  - (vi) Any evidence of rehabilitation, including good conduct in the community, counseling or psychiatric treatment received and the recommendations of persons who have substantial contact with the applicant.
- (3) If, in the judgment of the Commission, the applicant has demonstrated by clear and convincing evidence that the participation of the applicant in horse racing or related activities is not:
- (i) Inconsistent with the public interest or best interests of horse racing;
  - (ii) Interfering with the effective regulation of horse racing; or
  - (iii) Creating or enhancing the danger of unsuitable, unfair or illegal practices, methods or activities in the conduct of horse racing.

**§ 181.7. Denial, suspension or revocation.**

(a) The Commission may deny an application for a license or revoke, suspend or refuse to renew the license of any applicant or licensed racing entity, if the Commission finds by a preponderance of the evidence that:

(1) The applicant or licensed racing entity, or any of its owners, officers, director, managers, employees or agents:

(i) Has not complied with the conditions, rules, regulations and provisions of this chapter and that it would be in the public interest, convenience or necessity to deny, revoke, suspend or not renew the license.

(ii) Has been convicted of a violation or attempt to violate a horse racing law, rule or regulation of a horse racing jurisdiction.

(iii) Has furnished the Commission with false or misleading information relating to the application or license renewal.

(iv) Has failed to provide all requested documentation relating to an application or license renewal, change of ownership or transfer of license.

(v) Has been convicted of a crime involving moral turpitude.

(vi) Has been convicted of a misdemeanor gambling offense in any jurisdiction.

(vii) Has been convicted in any jurisdiction of fraud or misrepresentation related to horse racing or horse breeding.

(viii) Has engaged in or continues to engage in unlicensed or unlawful pari-mutuel wagering activities in or outside of this Commonwealth which violates the laws of the Commonwealth or the rules of racing.

(2) The applicant or licensed racing entity does not have the use of a racetrack or racetrack enclosure in accordance with the provisions of 4 Pa.C.S. Part II (relating to gaming).

(3) The licensed racing entity has commingled horsemen's organization funds in violation of section 9345(c) (relating to commingling) or has refused to place on deposit a letter of credit under section 9346 of the act (relating to standardbred horse racing purse money).

(4) The Commission determines that the licensed racing entity has failed to properly maintain its racetrack and racetrack enclosure in good condition under this chapter or to provide adequate capital improvements to the racetrack and racetrack enclosure as required under this chapter and 4 Pa.C.S. § 1404 (relating to distributions from licensee's revenue receipts).

(5) The applicant or licensed racing entity, its owners, officers, directors, managers, employees or agents have been convicted in any jurisdiction of an offense related to fixing or rigging horse races, including 18 Pa.C.S. § 4109 (relating to rigging publicly exhibited contest) or § 7102 (relating to administering drugs to race horses), or any similar crime in another jurisdiction, unless the conviction has been overturned on appeal under the laws of the jurisdiction of the original finding or a pardon has been issued.

(6) The experience, character or general fitness of an officer, director, principle or employee of the applicant is that the participation of that person in Standardbred or Thoroughbred horse racing and the related activities would be inconsistent with the public interest, convenience or necessity or with the best interest of racing generally.

(b) If a revocation or failure to renew a license under this chapter occurs, the licensee's authorization to conduct previously approved activity shall immediately cease, subject to the licensee's hearing rights as set forth in the Commission's regulations. In the case of a suspension, the licensee's authorization to conduct previously approved activity shall immediately cease until the Commission has notified the licensee that the suspension is no longer



in effect. After request for a hearing by a licensee, the Commission may grant a supersedeas, pending the final determination of the suspension.

(c) A horse race meeting license shall be renewed every 3 years upon application and, shall not be transferred except as provided for under section 9357 of the act (relating to transfers of licenses). Renewals of horse race meeting licenses shall not be granted automatically.

**§ 181.8. Racing days.**

(a) The Commission, consistent with the provisions of the Racing Act, its regulations and 4 Pa.C.S. § 1303 (relating to additional Category 1 slot machine license requirements), shall approve the specific number of race days requested by the licensed racing entity for the race meet. The required racing days under this section and 4 Pa.C.S. § 1303(a)(2) and (b) may be waived or modified by the Commission if the waiver or modification has been agreed to by the horsemen's organization and the licensed racing entity at the racetrack where the racing days are to be scheduled or raced.

(b) The provisions of 4 Pa.C.S. § 1303(d) shall not apply if the reason for noncompliance with that section by a licensed racing entity is the cancellation of racing days due to the Commission's inability to properly regulate and oversee the conduct of horse racing in this Commonwealth due to inadequate funding.

(c) The Commission shall submit to the Secretary of Revenue the approved number of racing days for each licensed racing entity, including the following information:

- (1) The names and addresses of the licensed racing entity;
- (2) The names and addresses of the owners, officers and general managers of the licensed racing entity; and
- (3) Any other information the Commission deems appropriate.

(d) If a racing day is canceled by a licensed racing entity for reasons beyond the licensed racing entity's control, the Commission shall grant the licensed racing entity the right to conduct that racing day in the same or the next ensuing calendar year, if schedules permit. The Standardbred or Thoroughbred Horse Racing Bureau Directors, after consultation with the licensed racing entity and the horsemen's organization at the racetrack, may also cancel a race if it is determined that fewer than six horses have entered the race.

**§ 181.9. Electronic wagering by licensed racing entity.**

(a) *New Application.* In accordance with the applicable provisions of Subchapter C of the act, a license racing entity seeking to offer all forms of electronic wagering, including advanced deposit wagering to individuals within this Commonwealth must apply to the Commission for the applicable license by submitting the following:

- (1) A completed electronic wagering license application, in the form approved by the Commission.
- (2) A Petition, in numbered paragraphs, containing the requested information as set forth in sections 9353 and 9355 of the act and setting forth any other information supporting its petition and request for an electronic wagering license.
- (3) Applicable licensing costs and fees as set forth in section 9352 (relating to licensing costs and fees) of the act.

(b) *Renewal Application/Petition.* An electronic wagering license issued to a licensed racing entity shall be renewed annually. An electronic wagering renewal application and renewal petition shall be submitted on or before 120 days before the expiration of the license term along with the applicable costs and fees as set forth in section 9352 of the act.

(1) The renewal application and petition, with the approval of the Commission or its designated staff may be limited to information updated or changed from the previous application or renewal.

(c) A licensed racing entity seeking to utilize a racing vendor to operate its advanced deposit wagering system shall submit the appropriate notification and petition for review and approval by the Commission. The racing vendor entity shall simultaneously submit an application to operate the advanced deposit wagering system on behalf of the licensed racing entity under the provisions of Subchapter C of the act.

**§ 181.10. Gratuities prohibited.**

No director, owner, officer, manager or employee of an applicant or licensed racing entity or their immediate family shall accept gifts, gratuities or anything of value from horse breeders, owners, trainers or other individuals in connection with racing related activities at any facility within this Commonwealth.

**§ 181.11. Possession of firearms.**

No person, licensee, employee of a licensed racing entity, a secondary pari-mutuel organization, or their racing vendors and concessionaires shall possess a firearm within the racetrack enclosure unless that person has obtained a valid permit for the firearm from an appropriate criminal law enforcement authority and the firearm has been registered in writing with the Commission's security office at the racetrack and the director of security of the licensed racing entity.

**§ 181.12. Racetrack financial responsibility.**

(a) Approval of a race meeting by the Commission does not establish the Commission as the insurer or guarantor of the safety of any participant or the physical condition of the racetrack facilities or the purse of any race.

(b) A licensed racing entity shall agree to indemnify, save and hold harmless the Commission from any liability, if any, arising from unsafe conditions of the racetrack grounds or in the default in payment of purses.

(c) If requested, a licensed racing entity shall provide to the Commission a copy of a certificate of liability insurance.

(d) A licensed racing entity and its managing officers shall ensure that all purse moneys, disbursements and appropriate nomination race moneys are available to make timely distribution in accordance with the act, Commission rules, licensed racing entity rules and race conditions.

(e) In accordance with section 9334 of the act (relating to State Racing Fund and tax rate) and the laws of the Commonwealth, a licensed racing entity and its managing officers shall pay to the Department of Revenue all necessary and proper taxes due. Upon request by the Commission, the license racing entity shall provide copies of the records of the payments.

**§ 181.13. Books and records of pari-mutuel wagering.**

(a) Every licensed racing entity that conducts a horse race meeting at which pari-mutuel wagering is authorized

shall maintain books and records that clearly show, by separate record, the total amount of money contributed to every pari-mutuel pool. The Commission and the Department of Revenue or their authorized representatives shall have access to examine all books and records and ascertain whether the proper amount due to the Commonwealth is being paid by the licensed racing entity.

(b) The Commission may require periodic audits to determine that the licensed racing entity has funds available to meet those distributions for the purposes required by the act, Commission rules, the conditions of the race meeting and the obligations incurred in the daily operations of the race meeting. In its audit reports to the Commission, the licensed racing entity shall include file a copy of all tax returns, a balance sheet and a profit and loss statement. The confidentiality of the audits and reports may be the subject of a request for confidentiality as set forth in the Commission's regulations.

(c) The Commission may request that a licensed racing entity file an unaudited balance sheet and profit and loss statement. Those submissions must be in a format which conforms with the requirements set out in the licensed racing entity's license application.

(d) An association shall file an annual audit with the Commission within the time period prescribed by the Commission. The Commission, upon good cause shown, may extend the time for filing. These annual audit reports shall include all operations for the calendar or fiscal year of the licensed racing entity and shall be:

(1) Verified under oath by at least two of the principal officers of the association.

(2) Submitted by persons preparing the reports.

(3) Separate records of each bank reconciliation must be maintained by the association in a manner which will clearly indicate all reconciling items between the balance per the bank statement and the balance per the books of the association at the date of reconciliation.

#### § 181.14. Bond or letter of credit requirements.

If applicable or required under section 9345 or section 9346 of the act (relating to commingling; and Standard-bred horse racing purse money), a licensed racing entity shall file with the Commission a bond or letter of credit payable to the Commission for an amount determined by the provisions of the act.

#### § 181.15. Filing of certain agreements with Commission.

At the request of the Commission, a licensed racing entity shall promptly file with the Commission any purchase or change of ownership agreements, live racing agreements, or SPMO, racing vendor agreements or any other contract or agreement as the Commission may determine. In the event approval of the agreement is not obtained by the licensed racing entity prior to its execution, the agreement shall contain an express provision which states that the agreement will not be operative unless approved by the Commission.

#### § 181.16. Horse entries prohibited.

No director, officer, principle or employee of the licensed racing entity engaged in the active management of the racetrack facility or member of that person's immediate family, shall race or permit or cause to be raced any horse in which that person has either direct or indirect interest, at any meeting conducted by that licensed racing entity.

#### § 181.17. Fines and penalties.

(a) *General rule.* The Commission may impose administrative fines upon any licensed or unlicensed racing

entity, association or person participating in horse racing at which pari-mutuel wagering is conducted, other than as a patron, for a violation of any provision of this chapter or rule or regulation of the Commission, not exceeding \$10,000 for each violation. Each day may be considered a separate violation. Fines shall be deposited in the State Racing Fund and may be appropriated for the enforcement of this chapter.

#### (b) *Interests.*

(1) No owner, officer or employee of a licensed racing entity or their immediate family shall have any direct or indirect interest in a race horse that is participating in a horse race meeting at which the person or relative listed under this paragraph holds any interest in the licensed racing entity conducting the horse race meeting or in the racetrack facility.

(2) The Commission may impose a fine upon any person for a violation of this subsection in accordance with subsection (a).

#### § 181.18. Searches within track premises.

To assist in detection of illegal pari-mutuel betting by racing personnel, effectively prevent the use of improper racing devices, restrict the possession of dangerous weapons on racing premises, control the expanded traffic in unlawful drugs and drug related paraphernalia, maintain proper and adequate supervision of racing and enforce the laws of the Commonwealth, the Commission or its representatives, shall have the right and privilege to conduct a search within the areas of the track premises which any owner, trainer, driver, groom, vendor of racing equipment and service or other licensee acting in their behalf, may occupy and to control including all personal property and effects and as a result of the search, the Commission or its representatives, shall have the power and authority to seize an article, within the areas, which may be forbidden or be in violation of the rules and regulations of the Commission.

#### § 181.19. Commission office space.

A licensed racing entity shall provide adequate office and administrative space for the use of the Judges, Stewards and other Commission personnel as required by the Commission. The location and size of the office space, furnishings and equipment required under this section must be approved by the Commission.

#### ANNUAL OR PRE-MEET SUBMISSIONS

#### § 181.21. Submission of information to the Commission.

(a) At the beginning of each meeting or at any other time as requested by the Commission, every licensed racing entity shall furnish the following information to the Commission:

(1) The current name and experience of the licensed racing entity's management employees and racing officials;

(2) Racetrack facility maintenance records;

(3) A report and certificate by a duly licensed civil engineer, land surveyor or other racetrack consultant that the racetrack has been properly measured from wire to wire;

(4) A report and certificate by a duly licensed civil engineer, land surveyor or other racetrack consultant evidencing the accurate measurement and survey of the turns of the racetrack oval;

(5) Detailed information regarding the racetrack's surface, materials and depth, maintenance records and information relating to the drainage system for the racetrack;

(6) The design and construction of the pylons, including the use of the lightening lane or the removal of the pylons must be approved by the Commission;

(7) Names of the racetrack personnel hired to maintain the track surface and a list of the necessary equipment, including any back-up equipment for maintaining the track surface.

(b) Prior to the first day of a race meeting, a licensed racing entity shall deliver to the Commission a copy of the fire marshal's certification regarding the licensed racing entity's compliance with fire safety regulations or the fire marshal's plan of correction, if applicable. The certification or plan must be based on an inspection of the racetrack grounds conducted by the fire marshal not more than 30 days before the first day of a race meeting.

(c) All detailed security and operational plans for the upcoming meet.

**RACETRACK FACILITIES—STANDARD BRED**

**§ 181.31. General provisions.**

(a) The licensed racing entity shall ensure that the public areas of the racetrack grounds are designed and maintained for the comfort and safety of the patrons and licensees and are accessible to all persons with disabilities as required by law.

(b) The licensed racing entity shall provide and maintain adequate restroom facilities for the patrons and licensees.

(c) The licensed racing entity shall provide an adequate supply of free drinking water.

(d) The licensed racing entity shall maintain all facilities on the racetrack grounds to ensure the safety and cleanliness of the facilities at all times.

(e) The licensed racing entity shall ensure the surface of the racetrack is designed, constructed and maintained to provide for the safety of the drivers and horses.

(f) The licensed racing entity shall maintain sufficient and adequate equipment and competent personnel for the purpose of continued maintenance of the racetrack surface and plant grounds and facility.

(g) During a race performance, the licensed racing entity shall also provide:

(1) A first aid room equipped with at least two beds and other appropriate equipment; and

(2) The services of at least one physician, a nurse practitioner or paramedic.

(h) *Human ambulance:* A licensed racing entity shall provide and maintain at least one properly equipped human ambulance to be present during qualifying races and during the regular racing program for participants, licensees and patrons.

(1) The ambulance shall be staffed with at least two Emergency Medical Technicians.

(2) If the ambulance is being used to transport an individual, the association may not conduct a race until the ambulance is replaced.

(i) At the beginning of each meet or at least annually, the licensed racing entity shall provide mandatory orientation of racing emergency procedures for all emergency response personnel as previously set forth.

**§ 181.32. Judges' stand.**

The licensed racing entity shall provide adequate stands and facility for the Judges and, as required, other officials to have a clear view of the racetrack. The location and design of the stands shall be reviewed and approved by the Commission.

**§ 181.33. Audio and visual equipment.**

(a) A licensed racing entity shall provide and maintain in good working order a communication system between the following:

(1) Judges' stand;

(2) Racing office;

(3) Tote room;

(4) Paddock;

(5) Test barn;

(6) Starting gate;

(7) Video camera locations;

(8) Commission Veterinarian;

(9) Track announcer;

(10) Location of the ambulances (equine and human); and

(11) Commission track office and other locations and persons designated by the Commission.

(b) The licensed racing entity shall provide and maintain a public address system capable of clearly transmitting announcements to the patrons and to the stable area.

**§ 181.34. Photo finish.**

(a) A licensed racing entity shall provide an electronic photo finish device with mirror image to photograph the finish of each race and record the time of each horse in at least fifths of a second. The location and operation of the photo finish devices must be approved by the Commission before its first use in a race or in the meet.

(b) The licensed racing entity shall promptly post a photograph of each photo finish for win, place or show in an area accessible to the public.

(c) The licensed racing entity shall ensure that the photo finish devices are calibrated before the first day of each race meeting and at other times as required by the Commission.

(d) On request by the Commission, the licensed racing entity shall provide, without cost, a print from a negative of a photo finish to the Commission. Photo finish negatives of each race shall be maintained by the association for not less than 6 months after the end of the race meeting or another period as may be requested by the Judges or the Commission.

**§ 181.35. Videotaping system.**

(a) A licensed racing entity shall provide a videotaping system approved by the Commission. Cameras must be located to provide clear panoramic and head-on views of each race. Separate monitors, which simultaneously display the images received from each camera and are capable of simultaneously displaying a synchronized view of the recordings of each race for review shall be provided in the Judges' stand. The location and construction of video towers must be approved by the Commission.



(b) The Judges may, at their discretion, direct the video camera operators to videotape the activities of any horse or person handling horses prior to, during or following a race.

(c) All races must be recorded by at least three video cameras.

(d) The licensed racing entity shall, upon request, provide to the Commission, without cost, a copy of a videotape of a race.

(e) Videotapes recorded prior to, during and following each race shall be maintained by the licensed racing entity for not less than 6 months after the end of the race meeting or another period as may be requested by the Judges or the Commission.

(f) A licensed racing entity shall provide a viewing area in which, on approval by the Judges, an owner, trainer, driver or other interested individual may view a videotape recording of a race.

(g) Following any race in which there is an inquiry or objection, the licensed racing entity shall display to the public on designated monitors the videotaped replays of the incident in question which were utilized by the Judges in making their decision.

**§ 181.36. Starting gates.**

During the race meet and at racing hours, a licensed racing entity shall provide at least two operable starting gates, which have been approved by the Commission.

**§ 181.37. Distance markers.**

(a) A licensed racing entity shall provide starting point markers and distance poles in a size and position that is clearly seen from the Judges' stand.

(b) All poles and markers shall be positioned at least 10 feet off the inside rail.

(c) The starting point markers and distance poles must be marked as follows:

- (1) 3/4 pole—Red and white horizontal stripes
- (2) 1/2 pole—Red and white horizontal stripes
- (3) 1/4 pole—Red and white horizontal stripes
- (4) 1/8 poles—Green and white horizontal stripes
- (5) 1/16 poles—Black and white horizontal stripes

**§ 181.38. Saddle pad colors.**

(a) All pari-mutuel racetracks shall adopt the following color format for saddle pad colors for post positions in each race:

- (1) Post Position One—Red
- (2) Post Position Two—Blue
- (3) Post Position Three—White
- (4) Post Position Four—Green
- (5) Post Position Five—Black
- (6) Post Position Six—Yellow
- (7) Post Position Seven—Pink
- (8) Post Position Eight—Gray
- (9) Post Position Nine—Purple
- (10) Post Position Ten—Blue/Red
- (11) Post Position Eleven—Light Blue
- (12) Post Position Twelve—Red/White

(b) All saddle pad numbers, with the exception of post positions three and five, shall be white with a black border. The saddle pad numbers for post positions three and five shall be solid black and solid white, respectively.

**§ 181.39. Lighting.**

(a) A licensed racing entity shall provide lighting for the racetrack and the patron facilities that is adequate to ensure the safety and security of the patrons, licensees and horses.

(b) A licensed racing entity shall provide the necessary and appropriate lighting to ensure the proper operation of the videotape and photo finish equipment which must be approved by the Commission.

(c) The licensed racing entity shall provide adequate additional lighting in the stable area as required by the Commission and shall maintain a back-up lighting system that is sufficient to ensure the safety of race participants and patrons.

**§ 181.40. Equine ambulance.**

(a) A licensed racing entity shall provide a horse ambulance staffed by trained personnel available in the stable area of the racetrack grounds during training, qualifying and race days for the removal of injured animals.

(b) The Commission may establish the following requirements for the equine ambulance:

(1) It must be properly ventilated and kept at a proper location ready for immediate or emergency use.

(2) The ambulance must be a covered vehicle that is low to the ground and large enough to accommodate a horse in distress. The ambulance must be also be equipped with and be able to do the following:

- (i) Navigate on the racetrack during all weather conditions;
- (ii) Transport a horse off the association grounds;
- (iii) Large, portable screens to shield a horse from public view;
- (iv) Ramps to facilitate loading a horse;
- (v) Adequate means of loading a horse that is down;
- (vi) A rear door and a door on each side;
- (vii) A padded interior;
- (viii) A movable partition to initially provide more room to load a horse and to later restrict a horse's movement;
- (ix) A shielded area for the person who is attending to the horse; and
- (x) An adequate area for the storage of water and veterinary drugs and equipment.

(c) A licensed racing entity may not conduct a race unless an equine ambulance or other Commission-approved substitute is readily available.

(d) The equine ambulance, its supplies and attendants and the operating procedures for the equine ambulance must be approved by the Commission.

(e) The equine ambulance must be stationed at a location designated by the licensed racing entity immediately available for an emergency.

**§ 181.41. Barns.**

(a) A licensed racing entity shall provide barns containing a sufficient number of stalls to accommodate all horses approved to race and all other horses approved to

be on the grounds, unless the licensed racing entity has request and received approval by the Commission to provide a paddock area for horses being shipped in for races. At all times, as a condition of licensure, the licensed racing entity shall provide the barn/stable area configuration or if applicable the configuration of the paddock facility.

(b) A licensed racing entity shall ensure that the barns are kept clean and in good repair. Each barn, including the receiving barn, must have a hot and cold water supply available, be well-ventilated, have proper drainage and be constructed to be comfortable in all seasons.

(c) A licensed racing facility shall ensure that each horse is stabled in an individual box stall with minimum dimensions of 10 by 10 feet.

(d) A licensed racing entity shall provide an adequate area for the placement of manure removed from the stalls. All manure must be removed from the stable area daily. The association shall ensure that refuse from the stalls and other refuse are kept separately.

(e) Licensed racing entities shall comply with all environmental, storage and disposal regulations as required by law.

**RACETRACK FACILITIES—THOROUGHBRED**

**§ 181.51. Thoroughbred facilities and equipment.**

(a) A licensed racing entity shall ensure that the public areas of the association grounds are designed and maintained for the comfort and safety of the patrons and licensees and are accessible to all persons with disabilities as required by Federal law.

(b) A licensed racing entity shall provide and maintain adequate restroom facilities for the patrons and licensees.

(c) A licensed racing entity shall provide an adequate supply of free drinking water.

(d) A licensed racing entity shall maintain all facilities on association grounds to ensure the safety and cleanliness of the facilities at all times.

(e) The licensed racing entity shall ensure the surface of the racetrack is designed, constructed and maintained to provide for the safety of the jockeys and horses.

(f) The licensed racing entity shall maintain sufficient and adequate equipment and competent personnel for the purpose of continued maintenance of the racetrack surface and plant grounds and facility.

(g) During a race performance, the licensed racing entity shall provide:

(1) A first aid room equipped with at least two beds and other appropriate equipment; and

(2) The services of at least one physician, a nurse practitioner or paramedic.

(h) The licensed racing entity shall provide a properly equipped to human transport ambulance and equine ambulance as set forth in § 181.61 (relating to human and equine ambulances).

(i) At the beginning of each meet or at least annually, the licensed racing entity shall provide mandatory orientation of racing emergency procedures for all emergency response personnel set forth in these regulations.

**§ 181.52. Concussion protocol program.**

(a) A licensed racing entity may establish a concussion protocol program for the education, evaluation, diagnosis and management of concussion of jockeys at its racetrack.

A licensed racing entity seeking permission to adopt a concussion protocol program shall petition the Commission and provide all the necessary medical, procedural and enforcement information regarding the proposed program for review by the Commission.

(b) The approval of a program by the Commission shall not be construed to make the Commission or the Stewards the guarantor or insurer of the jockey's physical condition.

(c) The protocol procedures may include that:

(1) Each jockey shall acknowledge in writing that they have been made aware of the concussion protocols in place for the racetrack at which they are riding;

(2) A minimum assessment of the jockey which shall include the most current Sport Concussion Assessment Tool examination when necessary and be performed by a medical professional licensed within this Commonwealth to perform the evaluation;

(3) A return-to-ride guideline shall be established to clear a jockey who has been concussed or is believed to have been concussed once the jockey is declared fit-to-ride by a medical professional authorized to do so; and,

(4) If implemented, the Stewards at the racetrack shall be notified when a jockey is not permitted to ride and when the jockey has been authorized to return to riding.

**§ 181.53. Stewards' stands.**

A licensed racing entity shall provide adequate stands for Stewards and other officials to have a clear view of the racetrack. The location and design of the stands shall be reviewed and approved by the Commission.

**§ 181.54. Audio and visual equipment.**

(a) A licensed racing entity shall provide and maintain in good working order a communication system between the:

- (1) Stewards' stand;
- (2) racing office;
- (3) tote room;
- (4) jockeys' room;
- (5) paddock;
- (6) test barn;
- (7) starting gate;
- (8) weigh in scale;
- (9) video camera locations;
- (10) clocker's stand;
- (11) racing veterinarian;
- (12) track announcer;
- (13) location of the ambulances (equine and human); and
- (14) other locations and persons designated by the Commission.

(b) A licensed racing entity shall provide and maintain a public address system capable of clearly transmitting announcements to the patrons and to the stable area.

**§ 181.55. Photo finish.**

(a) A licensed racing entity shall provide two electronic photo-finish devices with mirror image to photograph the finish of each race and record the time of each horse in at least hundredths of a second. The location and operation

of the photo finish devices must be approved by the Commission before its first use in a race or in the meet.

(b) The licensed racing entity shall promptly post a photograph of each photo finish for win, place or show in an area accessible to the public.

(c) The licensed racing entity shall ensure that the photo finish devices are calibrated before the first day of each race meeting and at other times as required by the Commission.

(d) Upon request by the Commission, the licensed racing entity shall provide, without cost, a print of a photo finish to the Commission. Photo finish records of each race shall be maintained by the licensed racing entity for not less than 6 months after the end of the race meeting or another period as may be requested by the Stewards or the Commission.

**§ 181.56. Videotaping system.**

(a) A licensed racing entity shall provide a videotaping system approved by the Commission. Cameras must be located to provide clear panoramic and head-on views of each race. Separate monitors, which simultaneously display the images received from each camera and are capable of simultaneously displaying a synchronized view of the recordings of each race for review shall be provided in the Stewards' stand. The location and construction of video towers must be approved by the Commission.

(b) One camera, designated by the Commission, shall videotape the pre-race loading of all horses into the starting gate and shall continue to videotape them until the field is dispatched by the Starter.

(c) One camera, designated by the Commission, shall videotape the apparent winner of each race from the finish line until the horse has returned, the jockey has dismounted and the equipment has been removed from the horse.

(d) The Stewards may, at their discretion, direct the video camera operators to videotape the activities of any horses or persons handling horses prior to, during or following a race.

(e) Races run on an oval track must be recorded by at least three video cameras. Races run on a straight course must be recorded by at least two video cameras.

(f) A licensed racing entity shall, upon request, provide to the Commission, without cost, a copy of a videotape of a race.

(g) Videotapes recorded prior to, during and following each race shall be maintained by the licensed racing entity for not less than 6 months after the end of the race meeting or another period as may be requested by the Stewards or the Commission.

(h) A licensed racing entity shall provide a viewing room in which, on approval by the Stewards, an owner, trainer, jockey or other interested individual may view a videotape recording of a race.

(i) Following any race in which there is an inquiry or objection, the licensed racing entity shall display to the public on designated monitors the videotaped replays of the incident in question which were utilized by the Stewards in making their decision.

**§ 181.57. Racetrack surface.**

(a) In addition to the provisions of § 181.21 (relating to submission of information to the Commission), the licensed racing entity shall ensure that the surface of a racetrack, including the cushion, subsurface and base, are

designed, constructed and maintained to provide for the safety of the jockeys and horses.

(b) Distances to be run shall be measured from the starting line at a distance 3 feet out from the inside rail.

(c) The surveyor's report must be approved by the Commission prior to the first race day of the meeting.

(d) A licensed racing entity shall provide an adequate drainage system for the racetrack.

(e) A licensed racing entity shall provide adequate equipment and personnel to maintain the track surface in a safe training and racing condition. The licensed racing entity shall also provide back-up equipment for maintaining the track surface.

(f) A licensed racing entity that conducts races on a turf track shall:

(1) maintain an adequate stockpile of growing medium; and

(2) provide a system capable of adequately watering the entire turf course evenly.

**§ 181.58. Starting gates.**

(a) During racing hours, a licensed racing entity shall provide at least two operable padded starting gates, which have been approved by the Commission.

(b) A licensed racing entity shall make at least one starting gate and qualified starting gate personnel available for schooling during designated training hours.

(c) A licensed racing entity shall ensure that an assistant Starter is available for each horse in an official race.

(d) If a race is started at a place other than in a chute, the association shall provide and maintain in good operating condition backup equipment for moving the starting gate. The backup equipment must be immediately available to replace the primary moving equipment in the event of failure.

**§ 181.59. Distance markers.**

(a) A licensed racing entity shall provide starting point markers and distance poles in a size and position that is clearly seen from the Stewards' stand.

(b) The starting point markers and distance poles must be marked as follows:

(1) 1/4 poles—Red and white horizontal stripes

(2) 1/8 poles—Green and white horizontal stripes

(3) 1/16 poles—Black and white horizontal stripes

(4) 220 yards—Green and white

(5) 250 yards—Blue

(6) 300 yards—Yellow

(7) 330 yards—Black and white

(8) 350 yards—Red

(9) 400 yards—Black

(10) 440 yards—Red and white

(11) 550 yards—Black and white horizontal stripes

(12) 660 yards—Green and white horizontal stripes

(13) 770 yards—Black and white horizontal stripes

(14) 870 yards—Blue and white horizontal stripes

**§ 181.60. Lighting.**

(a) A licensed racing entity shall provide lighting for the racetrack and the patron facilities that is adequate to



ensure the safety and security of the patrons, licensees and horses. Lighting to ensure the proper operation of the videotape and photo finish equipment must be approved by the Commission.

(b) A licensed racing entity shall provide adequate additional lighting in the stable area as required by the Commission.

(c) If a licensed racing entity conducts racing at night, the association shall maintain a back-up lighting system that is sufficient to ensure the safety of race participants and patrons.

**§ 181.61. Human and equine ambulances.**

(a) A licensed racing entity shall provide and maintain at least one human ambulance and at least one horse ambulance during times horses are permitted to train or race.

(1) The human transport ambulance shall be supplied and equipped in accordance with the requirements set forth by the Department of Health and staffed with at least one certified paramedic during training and two certified paramedics during racing hours. The paramedics shall be dully certified in accordance with the standards set forth by the Department of Health.

(2) If the human ambulance is being used to transport an individual, the license racing entity may not conduct a race or allow horses with riders on the racetrack until the ambulance is replaced.

(b) Unless otherwise approved by the Commission or the Stewards, an ambulance shall follow the field at a safe distance during the running of races. If not following the field, the human ambulance shall be parked at an appropriate entrance to the racing strip to allow ease of access.

(c) A licensed racing entity shall provide an equine ambulance staffed by trained personnel on association grounds on each day that the racetrack is open for racing or training.

(d) The Commission may establish the following requirements for the equine ambulance:

(1) The ambulance must be properly ventilated and kept at an appropriate entrance ready for immediate or emergency response.

(2) The ambulance must be a covered vehicle that is low to the ground and large enough to accommodate a horse in distress. The ambulance must be also equipped with and be able to do the following:

- (i) navigate on the racetrack during all weather conditions;
- (ii) transport a horse off the association grounds;
- (iii) large, portable screens to shield a horse from public view;
- (iv) ramps to facilitate loading a horse;
- (v) adequate means of loading a horse that is down;
- (vi) a rear door and a door on each side;
- (vii) a padded interior;
- (viii) a movable partition to initially provide more room to load a horse and to later restrict a horse's movement;
- (ix) a shielded area for the person who is attending to the horse; and
- (x) an adequate area for the storage of water and veterinary drugs and equipment.

(e) A licensed racing entity may not conduct a race unless an equine ambulance or other Commission-approved substitute is readily available.

(f) The equine ambulance, its supplies and attendants and the operating procedures for the equine ambulance must be approved by the Commission.

(g) The equine ambulance must be stationed at a location designated by the licensed racing entity immediately available for an emergency.

**§ 181.62. Barns.**

(a) A licensed racing entity shall provide barns containing a sufficient number of stalls to accommodate all horses approved to race and all other horses approved to be on the grounds. The assignment of barns and stalls are within the sole authority and discretion of the licensed racing entity and determination relating to barns and stall may not be appealed to the Commission. The licensed racing entity's stable area configuration and facilities must be approved by the Commission.

(b) A licensed racing entity shall ensure that the barns are kept clean and in good repair. Each barn, including the receiving barn, must have a hot and cold water supply available, be well-ventilated, have proper drainage and be constructed to be comfortable in all seasons.

(c) A licensed racing entity shall ensure that each horse is stabled in an individual box stall with minimum dimensions of 10 by 10 feet.

(d) A licensed racing entity shall provide an adequate area for the placement of manure removed from the stalls. All manure must be removed from the stable area daily. The licensed racing entity shall ensure that refuse from the stalls and other refuse are kept separately.

(e) Licensed racing entities shall comply with all environmental, storage and disposal regulations as required by law.

**OPERATIONS**

**§ 181.71. Test barn.**

In addition to the requirements set forth in Chapter 401 (relating to prohibited and unlawful practices—temporary regulations) and as a condition of its license, a licensed racing entity shall provide a test barn for taking, securing and storing specimens of urine, blood or other biological substances for pre-race or post-race testing. Access to the test barn shall be limited to authorized persons only. Entrances shall be locked or guarded at all times by licensed racing entity security.

**§ 181.72. Enforcement.**

Each licensed racing entity association shall be responsible for enforcing the provisions of this chapter subject to supervision by designated officials of the Commission.

**§ 181.73. Licensed racing entity security personnel.**

(a) Licensed racing entities shall employ an adequate number of persons as security guards to protect the health and safety of patrons, licensees and horses within the racetrack enclosure. Those designated security personnel shall maintain security controls over the racetrack grounds. All security controls and protocols are subject to the approval of the Commission.

(b) In addition to Commission licensure, a licensed racing entity may establish an internal 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.

(c) A license racing entity 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 the restricted area is unauthorized.

**§ 181.74. Admission to premises and security.**

(a) Unless otherwise authorized by the Commission, a licensed racing entity shall provide continuous security in the stable area during all times that horses are stabled on the grounds of the racetrack enclosure. Security personnel shall request that every person seeking entrance into the stable area provide a valid Commission license or racetrack credential or appropriate visitor's pass issued by the association.

(1) No person shall refuse to display or produce a valid Commission license, racetrack credential or other identification. Anyone refusing to display or produce a valid Commission license or credentials shall be refused entry and/or may be referred to the Judges or Stewards.

(b) A written record of all individuals admitted to the stable area between the hours of 12 a.m./midnight and 5 a.m. shall be maintained by the licensed racing entity and shall be produced upon request by the Commission.

(1) The written record shall, at a minimum, contain the name of the person admitted, the person's license number and the time admitted and reason for the person's presence.

(c) Upon request by the Commission, a licensed racing entity shall provide a list of the security personnel, including the name, qualifications, training, duties duty station and area supervised by each employee.

(d) Each day, the head of security for a licensed racing entity shall deliver a written report to the Stewards regarding any occurrences on the racetrack grounds on the previous day. Not later than 24 hours after an incident occurs requiring the attention of security personnel, the head 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, the circumstances of the incident and any recommended charges against each individual involved.

**§ 181.75. Admission and removal of horses.**

(a) All horses entered to compete shall be present on racetrack grounds no less than 2 hours prior to the scheduled post time of the race for which the horse is entered to compete. Horses not arriving on racing association property at least 2 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.

(b) A complete and accurate list of all horses, tattoo numbers and description of the horses entering the stable area shall be prepared by racetrack security personnel, who shall determine the identity of the trainer, owner, van driver or other designated person entering with the horses.

(c) All horses leaving the racetrack grounds must be registered with the licensed racing entity's security personnel, who shall prepare a detailed and accurate list of all horses, including tattoo numbers, description and the name/license number of those persons accompanying the horse.

(d) Once admitted onto the racetrack grounds to participate in a race, no horse shall be removed from the racetrack at any time without specific medical or veteri-

nary authorization and without approval from the Judges or Stewards and racetrack management.

**§ 181.76. Fire prevention.**

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

(b) No person shall:

(1) Smoke in stalls, feed rooms or under shed rows;

(2) Burn open fires or oil or gas lamps in the stable area;

(3) Leave unattended any electrical appliance that is plugged-in to an electrical outlet;

(4) Permit horses to come within reach of electrical outlets or cords;

(5) Store flammable materials such as cleaning fluids or solvents in the stable area; or

(6) Lock a stall which is occupied by a horse.

(c) An association shall post a notice in the stable area which lists the prohibitions outlined in subsections (a) and (b).

**§ 181.77. Admission of minors.**

Minors under 18 years of age shall not be admitted to the track. Any minor legally employed by any association, concessionaire or other person duly licensed by the Commission shall be admitted to the track for the sole purpose of performing his duties as an employee. A minor, accompanying a parent or natural guardian who is also a licensee and whose employment requires him to be present in the stable or paddock area, shall be admitted to the stable or paddock area with the licensee. In no event shall the minor be permitted to wager upon any race nor shall the minor be permitted to be in the area of the track other than that area in which his duties are to be performed.

**§ 181.78. Health certificate.**

No horse shall be admitted to any part of the plant or premises of any pari-mutuel racing association under the jurisdiction of the Commission unless a health certificate is presented when admission to the premises is sought. The Certificate must state the following regarding the health and physical condition of the horse:

(1) The horse was examined thoroughly within a 7-day period preceding the date admission is sought.

(2) The horse was free of any evidence of infectious, contagious or transmissible disease and was afebrile at the time of the examination.

(3) The horse was free of ectoparasites at the time of the examination.

(4) The horse has not, within the past 2 weeks, been exposed to other horses with any known infectious, contagious or transmissible diseases.

**CHAPTER 183. SECONDARY PARI-MUTUEL ORGANIZATIONS—TEMPORARY REGULATIONS**

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**§ 183.1. General provisions.**

(a) *New application:* As set forth in sections 9322 and 9351 of the act, a SPMO seeking to engage in electronic wagering or otherwise offer ADW to individuals within this Commonwealth, as defined in the act, must apply to the Commission for an electronic wagering license by submitting a completed license application as approved by the Commission.

(1) An incomplete application shall not be reviewed or considered for licensure.

(2) A SPMO may not begin wagering operations until approved by the Commission or its designee.

(b) *Annual Renewal applications:* An electronic wagering license issued to a secondary pari-mutuel organization shall be renewed annually. An electronic wagering renewal application shall be submitted on or before 120 days before the expiration of the license term. If the renewal application is approved by the Commission, the license renewal shall take effect January 1.

(c) The following shall apply to a secondary pari-mutuel organization:

(1) Each SPMO employee directly or indirectly responsible for the acceptance of wagers on horse races or the transmittal of wagering information to and from the Commonwealth must be properly licensed.

(2) A secondary pari-mutuel organization must comply with each rule and regulation of the Commission.

**§ 183.2. License costs and fees.**

(a) The applicant shall submit, along with its license application, the applicable license fees set forth in section 9352 of the act (relating to licensing costs and fees). The applicant shall also pay all costs incurred by the Commission in reviewing an application for an initial license, including any legal and investigative costs and the cost of other necessary outside professionals and consultants.

(1) Any portion of the payment not required to complete the investigation shall be refunded to the applicant within 20 days of the granting, withdrawal or rejection of the initial license application.

(3) To the extent additional costs will be necessary, the applicant shall reimburse the Commission in an amount reasonably requested by the Commission within 10 days of receipt of the request. Failure to submit an additional requested payment shall result in suspension of the processing of the license application and may result in denial of the license.

(b) For purposes of a renewal license, the SPMO shall submit a renewal application, along with the applicable renewal fee and costs for the review of the renewal license as set forth in the act.

**§ 183.3. Application requirements.**

(a) A SPMO application for an initial or renewal license shall be in the form and manner prescribed by the Commission in accordance with this chapter. The Commission may deny a license to an applicant that provides false or misleading information or omits material information from the application. The SPMO application shall include all of the following:

- (1) The applicant's legal name.
- (2) The location of the applicant's principal office.

(3) The name, address and date of birth of each principal with a 5% or greater share of ownership or beneficial interest in the applicant.

(4) Audited financial statements for the last 3 years or, if the applicant does not have audited financial statements, financial and other pertinent information as required by the Commission to determine that the applicant is financially capable of operating as a going concern and protecting accounts.

(5) A detailed plan of how the wagering system will operate. The Commission may require changes in the proposed plan of operations as a condition of granting a license. There shall not be subsequent material changes in the plan of operations unless ordered by the Commission or until approved by the Commission after receiving a written request.

(6) A list of all personnel processing wagers on races made by residents of this Commonwealth. This list shall be kept current and be provided to the Commission upon request.

(7) Copies of all documents required under this subsection by the Commission.

(8) Certification of compliance with totalisator standards and licensing requirements adopted by the Commission.

(9) A type II SAS 70 report or other independent report in a form acceptable to the Commission completed within the preceding 12 months, to assure adequate financial controls are in place in the secondary pari-mutuel organization.

(10) An agreement to allow the Commission to inspect and monitor each facility used by the secondary pari-mutuel organization for accepting, recording or processing pari-mutuel wagers accepted in this Commonwealth.

(11) Certification of the use of a pari-mutuel system which meets all requirements for a pari-mutuel system utilized by a licensed racing entity in this Commonwealth.

(12) Written evidence of tax compliance as set forth in section 9361 of the act (relating to tax compliance requirement).

**§ 183.4. Review and approval.**

(a) The Commission shall determine the suitability, fitness and experience of a SPMO and its key employees, consistent with the public interest, convenience and necessity and the best interests of racing generally, including, the provisions set forth in section 9318(e) and (f) of the act (relating to licenses for horse race meetings) and the following:

(1) Meeting general industry standards for business and financial practices, procedures and controls.

(2) Possession of a wagering system that ensures that all wagering information is transmitted to and calculated in the appropriate host track pool.

(3) Utilization of a totalisator system that meets wagering-industry standards and certification criteria.

(4) Meeting general industry standards for physical security of computerized wagering systems, business records, facilities and patrons.

(5) Having no indications of improper manipulation of a secondary pari-mutuel organization's wagering system, including software.

(6) Having policies and procedures that ensure a secondary pari-mutuel organization's key individuals have applied and are eligible for all required occupational licenses.



(7) Having an annual independent audit with no audit opinion qualifications that reflect adversely on integrity.

(8) Having a system that verifies the identity of each person placing a wager and requires the person placing a wager to disclose each beneficial interest in a wager the secondary pari-mutuel organization accepts.

(9) Having a real-time independent monitoring system to monitor wagering activity to detect suspicious patterns, including any that might indicate criminal activity or regulatory violations. The system must verify each transaction performed by the totalisator system and provide expeditious notice of any discrepancies or suspicious activity to the host track, wagering site, due diligence investigating body and any affected regulatory agency.

(10) Having a satisfactory record of customer relations, including no excessive unresolved patron complaints concerning the secondary pari-mutuel organization's business practices.

(11) Holding required permits, licenses, certifications or similar documents that may be required by a racing, gaming or other pari-mutuel wagering jurisdiction.

(12) Having sufficient measures to protect customer funds from being commingled with other moneys.

(xiii) Publicizing and providing a sufficient program for customer self-exclusion and wagering limitation.

(13) Having expertise in pari-mutuel wagering and being technologically capable of participating in simulcast and wagering activities.

(b) As set forth in section 9353(b) of the act (relating to license application procedures), the Commission may also consider the following information in making a determination for a SPMO's initial license or renewal application:

(1) The integrity of the applicant and its principals, including:

(i) Whether the applicant or its principals are unsuitable.

(ii) Whether the applicant or its principals have been a party to litigation over business practices, disciplinary actions over a business license or refusal to renew a license.

(iii) Whether the applicant or its principals have been a party to proceedings in which unfair labor practices, discrimination or violation of government regulations pertaining to racing or gaming laws was an issue or bankruptcy proceedings.

(iv) Whether the applicant or its principals have failed to satisfy judgments, orders or decrees.

(v) Whether the applicant or its principals have been delinquent in filing tax reports or remitting taxes.

(2) The quality of physical facilities and equipment.

(3) The financial ability of the applicant to conduct wagering.

(4) The protections provided to safeguard accounts, including a certification from the licensee's chief financial officer that account funds will not be commingled with other funds as required under this chapter.

(5) The management ability of the applicant and its principals.

(6) Compliance of the applicant with applicable statutes, charters, ordinances and administrative regulations.

(7) The efforts of the applicant to promote, develop and improve the horse racing industry in this Commonwealth.

(8) The efforts of the applicant to safeguard and promote the integrity of pari-mutuel wagering in this Commonwealth.

(9) The economic impact of the applicant upon the Commonwealth.

(10) The secondary pari-mutuel organization and the secondary pari-mutuel organization's owners and sources of funds must have sufficient financial means to participate in simulcast and wagering activities, including sufficient assets and means to pay industry-related debts and obligations and to fund the operations of the secondary pari-mutuel organization.

#### § 183.5. Good-faith cooperation.

The secondary pari-mutuel organization must be fully cooperative and act in good faith with all disclosure and other duties involved in a due diligence investigation, voluntarily submit to regulatory and investigating body oversight, permit inspection of each business record upon request by a regulatory authority or investigating body, promptly honor regulatory or investigating body requests for wagering patterns or other information and, after reasonable notice, permit full access to each facility and property by a regulatory authority or investigating body.

#### § 183.6. Waiver.

(a) A due diligence investigation may rely on an investigation and oversight conducted by a Commission-approved entity.

(b) The Commission may not consent to the acceptance of an interstate off-track wager by a secondary pari-mutuel organization that has not been determined to be suitable under this section.

#### § 183.7. Additional application information.

(a) The Commission may request additional information from an applicant if the additional information would assist the Commission in deciding whether to issue or renew a license, including all of the following:

(1) Copies of any documents used by the applicant in preparing the application.

(2) A list of each contract between the applicant and a third party related to operations. The Commission may review the contracts at any time upon request.

#### § 183.8. SPMO operations.

(a) Before doing business in this Commonwealth all of the following are required of a SPMO licensee:

(1) Be qualified to do business in this Commonwealth.

(2) Submit a copy of each document required to be filed with the Department of Revenue and each document related to an audit or investigation by any Federal, State or local regulatory agency to the Commission.

(3) Remit to the Commission a copy of each document required to be filed with any Federal, State or local regulatory agency.

(b) *Operational Requirements:*

(1) A licensee shall submit quarterly reports to the Commission providing amounts wagered by residents in this Commonwealth and amounts wagered on races in this Commonwealth.

(2) A licensee shall contribute to the horsemen's purse account in accordance with section 9331(d) of the act (relating to pari-mutuel wagering at nonprimary locations) as directed by the Commission.

(3) A licensee shall not commingle account funds with other funds.

(4) A licensee shall provide quarterly financial statements to the Commission for the first calendar year of operation if the licensee does not have audited financial statements for the last 3 years as referenced in section 9353(a)(4) of the act (relating to license application procedures).

(5) A licensee shall use and communicate pari-mutuel wagers to a totalisator licensed by the Commission.

(6) A licensee shall operate and communicate with the totalisator in a way as not to provide or facilitate a wagering advantage based on access to information and processing of wagers by account holders relative to individuals who wager at licensed racing entities or simulcast facilities.

(7) All personnel processing wagers made by residents of this Commonwealth shall be licensed by the Commission.

(8) Accounts shall only be accepted in the name of an individual and shall not be transferable. Only individuals who have established accounts with a licensee may wager through a licensee.

(9) Each account holder shall provide personal information as the licensee and the Commission require, including all of the following:

- (i) Name.
- (ii) Principal residence address.
- (iii) Telephone number.
- (iv) Social Security number.
- (v) Date of birth.
- (vi) Other information necessary for account administration.

(10) The information supplied by the account holder shall be verified by the licensee using means acceptable to the Commission.

(11) The licensee shall provide each account holder a secure personal identification code and password to be used by the account holder to confirm the validity of every account transaction.

(12) An employee or agent of the licensee shall not disclose any confidential information except as follows:

- (i) To the Commission.
- (ii) To the account holder as required by this chapter.
- (iii) To the licensee and its affiliates.
- (iv) To the licensed racing entity as required by the agreement between the licensee and the licensed racing entity.
- (v) As otherwise required by law.

(13) The licensee shall provide each account holder a copy of account holder rules and the terms of agreement and other information and materials that are pertinent to the operation of the account.

(14) The licensee may refuse to establish an account if it is found that any of the information supplied is false or incomplete or for any other reason the licensee deems sufficient.

(15) Each account shall be administered in accordance with the account holder rules and the terms of agreement provided to account holders, including:

- (i) Placing of wagers.
- (ii) Deposits to accounts.
- (iii) Credits to accounts.
- (iv) Debits to accounts.
- (v) Refunds to accounts.
- (vi) Withdrawals from accounts.
- (vii) Minimum deposit requirements.
- (viii) Fees per wager.
- (ix) Rebates.

(16) Each licensee shall have protocols in place and shall publicize to its account holders when the wagers are excluded from a host racetrack's wagering pool. These protocols shall include an immediate electronic mail message to affected account holders and immediate posting on the licensee's publicly accessible Internet web site.

(17) A licensee shall maintain complete records of the application and the opening of an account for the life of the account plus 2 additional years. A licensee shall also maintain complete records of the closing of an account for 2 years after closing. These records shall be provided to the Commission upon request.

(18) A licensee shall maintain complete records of all transactions, including deposits, credits, debits, refunds, withdrawals, fees, wagers, rebates and earnings for 2 years. These records shall be provided to the Commission upon request.

(19) All wagering conversations, transactions or other wagering communications, verbal or electronic, shall be recorded by means of the appropriate electronic media and the tapes or other records of the communications shall be kept by the licensee for a period of 2 years. These tapes and other records shall be made available to the Commission upon request.

(20) The recording of the confirmation of the transaction, as reflected in the voice or other data recording, shall be deemed to be the actual wager regardless of what was recorded by the totalisator.

(21) A licensee shall not accept wagers if its recording system is not operable.

(22) The Commission may monitor the equipment and staff and review the records of a licensee and any of the transactions conducted by the licensee with regards to wagers made by residents of this Commonwealth.

(23) A licensee may suspend or close any account for violation of the account holder rules and the terms of agreement or any other reason it deems sufficient, if the licensee returns to the account holder all money then on deposit within 7 calendar days.

**§ 183.9. Penalties and enforcement.**

All of the following apply:

(1) The Commission shall have all of the rights, powers and remedies necessary to carry out this chapter and to ensure compliance with this chapter, including revocation, suspension or modification of a license and the imposition of fines under section 9325 of the act (relating to power of commission to impose fines).

(2) With respect to an individual or entity that offers pari-mutuel wagering to residents of this Commonwealth without a license issued by the Commission, the Commission may take the measures deemed necessary, including referral to the appropriate regulatory and law enforcement authorities for civil action or criminal penalties.

(3) Upon the finding of a violation by a secondary pari-mutuel organization of this chapter or of a Commission regulation or order or upon the finding of unlicensed electronic or advanced deposit account wagering by an individual or entity, the Commission may impose a fine as authorized under section 9325 of the act.

### CHAPTER 185. OCCUPATIONAL LICENSES—TEMPORARY REGULATIONS

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#### § 185.1. General provisions.

(a) Every person participating in pari-mutuel racing activities within this Commonwealth must be licensed by the Commission in accordance with the provisions set forth in section 9323 of the act (relating to occupational licenses for individuals) and with the Commission's specific regulations relating to the applicant's racing occupation.

(b) In addition to the provisions set forth in Chapters 203 and 303 (relating to licensing, duties and responsibilities of Standardbred licensees; and licensing, duties and responsibilities of Thoroughbred licensees) of the Commission's regulations, the filing of an application for a particular occupational license shall authorize the Commission to investigate criminal records and employment records, to conduct a thorough background investigation and to conduct interviews to determine if the applicant's character, experience and qualifications are consistent with the best interest of racing and the general public.

(c) By acceptance of a license, a licensee consents to search and inspection by the Commission or its agents of the licensee's person, personal property and areas under the licensee's possession, care or control. The licensee explicitly consents to the seizure of any prohibited medication, drugs, paraphernalia or other illegal devices or contraband in accordance with State and Federal law and with the applicable provisions of the act.

(d) Every license is granted upon the express condition that the licensee shall accept, observe and abide by the rules and regulations of the Commission. Licensees are presumed to have knowledge of the rules of racing and are charged with the responsibility, duty and obligation to report any apparent or actual violation of the rules of racing to the Commission.

(e) As a condition of licensure, every licensee shall fully cooperate with any ongoing administrative Commission action, investigation or background review and shall comply with a properly issued Commission subpoena for the attendance of the licensee at an administrative hearing or for the production of any relevant reports, papers, documents and correspondence related to an

investigation. Refusal to cooperate with a properly issued subpoena shall subject the licensee to a license suspension or revocation.

#### § 185.2. Conduct of licensee.

A licensee shall not, alone or in concert with another person, engage in inappropriate, illegal or unethical conduct which violates the Commission's rules and regulations of racing, is inconsistent with the best interests and integrity of racing or otherwise undermines the general public's faith, public perception and confidence in the racing industry.

#### § 185.3. License is a privilege.

While all licensees shall be afforded due process rights, in accordance with section 9323(a) of the act (relating to occupational licenses for individuals), a license is a privilege and shall not be deemed a property right.

#### § 185.4. Term of occupational license.

Licenses, unless revoked for cause, shall be issued for the period of 3 years. To facilitate a convenient and orderly licensing process, the Commission may establish a staggered expiration period for occupational licenses.

#### § 185.5. Occupational license fees.

In accordance with section 9312 of the act (relating to additional powers of commission), the Commission established and published a comprehensive fee schedule for all occupational licenses. Every 2 years the Commission shall review the fee schedule to determine whether to increase any fee, charge or cost associated with occupational licenses. The Commission by order, notice to the regulated community and publication in the *Pennsylvania Bulletin*, shall amend the fee schedule as deemed necessary.

#### § 185.6. Age requirement.

All applicants for licensing shall be at least 18 years of age, unless otherwise specified in these rules and regulations or by specific exemption by the Commission. An applicant seeking an age exemption must file a written request with the Commission with supporting documentation to justify an age-related exemption. The decision not to grant an age-related exemption may not be appealed. An applicant may be required to submit a certified copy of the applicant's birth certificate or other proof of age and identification.

#### § 185.7. Protection of horses.

(a) Each person licensed by the Commission shall do all that is reasonable and within the licensee's power and scope of duty to guard against and prevent any horse entered or to be entered in an official workout or race, from coming into contact with or be administered any drug, medication or other foreign substance, including a permissible medication in excess of the maximum allowable level.

(b) No licensee or other person under the jurisdiction of the Commission shall subject or permit any animal under the licensee's care, custody, control or supervision to be subjected to or to incur any form of cruelty, mistreatment, neglect, abuse or abandonment. No licensee shall injure, maim, kill, administer a noxious substance to or otherwise deprive any animal of necessary veterinary care, sustenance or shelter.

(c) In addition to any licensing action or penalty imposed by the Commission for the previous misconduct, the Commission shall immediately notify and refer the cruelty matter to the appropriate authorities for possible criminal prosecution.



**§ 185.8. License application process.**

(a) An applicant shall submit the appropriate occupational license application and shall agree to be fingerprinted, as may be required by the Commission and provide complete, accurate and truthful disclosure on the application. Based upon the submission of the application, the Commission or its staff shall conduct the appropriate investigation of all criminal and employment records.

(b) Applicants for any form of license or registration issuance receipt or renewal shall be required to complete the authorization for release of confidential or background information as may be required by the Commission. Refusal to complete the authorization shall be an automatic bar to license or registration issuance or renewal.

(c) The Commission shall require an applicant under this chapter to submit to fingerprinting for a report of Federal criminal history record information.

(1) The applicant must submit a full set of fingerprints to the Pennsylvania State Police or the Pennsylvania State Police's authorized agent for the purpose of a record check. The Pennsylvania State Police or the Pennsylvania State Police's authorized agent must then submit the fingerprints to the Federal Bureau of Investigation for the purpose of verifying the identity of the applicant and obtaining a current record of any criminal arrests and convictions.

(2) The Commission shall consider information obtained under this paragraph for the purpose of screening applicants for fitness and suitability for licensure in accordance with the provisions of the act or these regulations.

(3) National criminal history record information received by the Commission shall be handled and maintained in accordance with Federal Bureau of Investigation policy.

(4) Fingerprints obtained under this paragraph may be maintained by the Commission and Pennsylvania State Police to enforce this chapter and for general law enforcement purposes.

(5) In addition to any other fee or cost assessed by the Commission, an applicant must pay for the cost of the fingerprint process.

(6) The Commission may exempt applicants for positions not related to the care or training of horses, racing, wagering, security or the management of a licensed racing entity, from the provisions of this chapter.

**§ 185.9. Fingerprinting and licensing reciprocity.**

(a) The Commission may establish a modified or abbreviated application process and procedures for licensees who have been previously licensed and in good standing with another racing jurisdiction. In utilizing the reciprocal license process, the Commission may determine that a Federal Bureau of Investigation fingerprint check conducted within the previous 36 months or another period as approved by the Commission is adequate for its criminal background investigation. The Commission, for the reciprocal license process, require an abbreviated application form or affidavit, as may be required by the Commission and pay the required applicable fees prior to participating in racing in this Commonwealth.

(b) An applicant must be in good standing in each jurisdiction where they hold or have held a racing license.

(c) The applicant shall provide this jurisdiction with proof of licensure from another jurisdiction to which fingerprints were submitted.

(d) Provided the previous requirements have been met, the Commission may issue a valid occupational license in this jurisdiction.

**§ 185.10. License renewal.**

(a) All licenses shall be subject to renewal every 3 years upon application and review as determined by the Commission or its designee. Occupational license renewals shall not be considered automatic.

(b) The application for renewal shall be submitted at least 60 days prior to expiration of the license term and shall include:

(1) an update of the information contained in the initial application and any prior renewal application, if applicable;

(2) payment of the renewal fee required by the Commission.

(c) A license for which a completed renewal application and fee, if required, has been received by the Commission shall continue in effect unless and until the Commission sends written notification to the licensee that the Commission has denied the renewal of the license.

(d) Nothing in this chapter shall be construed to relieve a licensee of the affirmative duty to notify the Commission of any changes relating to the status of its license or to any other information contained in the application materials on file with the Commission.

**§ 185.11. Licensing action.**

(a) *Withdrawal of application:* The Commission, the Bureau Directors, the Director of Licensing or any other Commission designee may, instead of issuing a formal application denial, grant the applicant permission to withdraw the application without prejudice.

(b) *License approval:* The Commission may grant a license if, after a thorough background investigation, it finds that the experience, character and general fitness of the applicant are that the participation of the person in horse racing meets and pari-mutuel racing activities in this Commonwealth will be consistent with the public interest and with the best interests of racing in conformity with the purpose of the act.

(c) *License denial:* In addition to the provisions of section 9323 of the act (relating to occupational licenses for individuals), the Commission may formally deny an application in accordance with these rules and regulations. The applicant shall be notified of the reasons for the denial in writing. The license denial shall also be issued as a formal ruling which may be reported to the Association of Racing Commissioners International or the USTA or to any other racing jurisdiction.

**§ 185.12. Grounds for refusal, denial, suspension or revocation of license.**

(a) In accordance with the provisions of section 9323(g) of the act (relating to occupational licenses for individuals) the following shall apply:

(1) The Commission may not issue a license under this section to an individual who has been convicted in a jurisdiction of a felony offense, a misdemeanor gambling offense or a fraud or misrepresentation in connection with horse racing or breeding, unless 15 years has passed from the date of conviction of the offense.

(2) Following expiration of a period applicable to an applicant under paragraph (1), in determining whether to

issue a license to an applicant, the Commission shall consider the following factors:

- (i) The nature of the applicant's involvement with horse racing.
- (ii) The nature and seriousness of the offense or conduct.
- (iii) The circumstances under which the offense or conduct occurred.
- (iv) The age of the applicant when the offense or conduct occurred.
- (v) Whether the offense or conduct was an isolated or a repeated incident.
- (vi) Any evidence of rehabilitation, including good conduct in the community, counseling or psychiatric treatment received and the recommendations of persons who have substantial contact with the applicant.

(b) The Commission may deny an application for a license or suspend, revoke or refuse to renew a license issued under this section if it determines that the applicant or licensee meets any of the following:

- (1) Has been convicted of any violation or attempts to violate any law, rule or regulation of horse racing in any jurisdiction.
- (2) Has been convicted of an offense under 18 Pa.C.S. Subchapter B, §§ 5531—5561 (relating to cruelty to animals) (as amended).
- (3) Has violated a rule, regulation or order of the Commission.
- (4) Has been convicted in any jurisdiction of an offense related to fixing or rigging horse races including 18 Pa.C.S. § 4109 (relating to rigging publicly exhibited contest) or § 7102 (relating to administering drugs to race horses) or any similar crime in any other jurisdiction, unless the conviction has been overturned on appeal under the laws of the jurisdiction of the original finding or a pardon has been issued.
- (5) Has not demonstrated by clear and convincing evidence that the applicant or licensee:
  - (i) Is a person of good character, honesty and integrity.
  - (ii) Is a person whose prior activities, criminal record, if any, reputation, habits and associations:
    - (A) do not pose a threat to the public interest or the effective regulation and control of horse racing.
    - (B) do not create or enhance the danger of unsuitable, unfair or illegal practices, methods and activities in the conduct of horse racing or the carrying on of the business and financial arrangements incidental to the conduct of horse racing.

**§ 185.13. License restrictions, limitations and conditions.**

(a) Based upon the Commission's background investigation of an applicant or licensee, the Commission may impose the following restrictions, limitations or conditions upon the licensee and the licensee's racing activities:

- (1) grant a temporary license for 4 months within a 12-month period pending a final determination. A temporary license shall expire at the end of 4 months with no expectation or guarantee of renewal.
- (2) grant a license upon the terms and conditions as deemed necessary and appropriate by the Commission or its designee to protect the integrity and best interest of the racing industry.

(b) A licensee having been granted a conditional license as set forth in subsection (a) shall abide by all the terms and conditions set forth in the license. As agreed upon by the licensee, a violation of the terms and conditions set forth in the conditional license shall be deemed separate grounds for suspension or revocation of the occupational license.

**§ 185.14. Employer responsibility.**

The employment or harboring of any unlicensed person at facilities under the jurisdiction of the Commission is prohibited. Every licensed racing entity, owner or trainer shall report, in writing, the discharge of a licensed employee to the Commission or its designee, including the person's name, occupation and reason for the discharge.

**§ 185.15. Workers' compensation insurance required.**

(a) All licensed employers shall carry workers' compensation insurance covering their employees as required by the laws of the Commonwealth. Owners and trainers shall provide a list of employees on the badge list and shall produce evidence of coverage on an ongoing basis.

(b) No licensed owner or trainer shall grant, give or provide an ownership interest in a horse to their employee to avoid the worker's compensation insurance requirement. An owner, trainer and the owner or trainer's employee shall file an affidavit and provide the documentation, as required by the Commission, to evidencing a true and proper ownership interest of the horse by the employee.

(c) Notwithstanding the language in subsections (a) and (b), licensed racing entities may establish their own guidelines, requirements and procedures governing worker's compensation insurance coverage.

**§ 185.16. Misuse of license.**

A person may not exercise or attempt to exercise the rights of an occupational license not otherwise properly authorized by the Commission through the appropriate licensing procedures set forth in this chapter. The Commission will exercise the power to regulate the conduct of persons holding licenses or who are participating in racing by the use of rights of a licensee.

**§ 185.17. Relationships with suspended or inactive persons prohibited.**

(a) A person shall not train a horse or practice veterinary medicine for the benefit, credit, reputation, or satisfaction of an inactive or suspended person. This prohibition shall not prevent the partners in a veterinary practice from providing services to horses so long as the inactive person does not receive a pecuniary benefit from those services.

(b) An employee or associated person of a suspended or inactive person shall not:

- (1) Assume the suspended person's responsibilities at a location under the jurisdiction of the Commission;
- (2) Complete an entry form for a race on behalf of or for the suspended or inactive person or an owner or customer for whom the suspended or inactive person has worked; or
- (3) Pay or advance an entry fee on behalf of the suspended or inactive person or owner or customer for whom the inactive person has worked.

(c) An employee or associated person who assumes the responsibility for the care, custody or control of a horse

owned (fully or partially), leased or trained by a suspended or inactive person shall not:

(1) Be paid a salary directly or indirectly by or on behalf of the inactive person;

(2) Receive a bonus or any other form of compensation in cash, property or other remuneration or consideration from the inactive person;

(3) Make a payment or give remuneration or other compensation or consideration to the suspended or inactive person; or

(4) 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.

(d) 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 a suspended or inactive person shall:

(1) Bill customers directly for any services rendered at or in connection with any race meeting;

(2) Maintain a checking account totally separate from and independent of that of the suspended or inactive person to be used to pay expenses of and deposit income from an owner or client of the suspended inactive person;

(3) Not use the services, directly or indirectly, of current employees of the suspended or inactive person; and

(4) Pay bills related to the care, training, and racing of the horse from a separate and independent checking account. Copies of the invoices for these expenses shall be retained for not less than 6 months after the date of the reinstatement of the license of the inactive person or the expiration of the suspension of the inactive person's license.

**§ 185.18. Association with undesirables.**

If a person under the jurisdiction of the Commission shall be approached with an offer, promise, request or a suggestion for a bribe or for an improper, corrupt or fraudulent act in relation to racing or that a race shall be conducted otherwise than fairly and in accordance with the rules of this Commission, it shall be the duty of the person to immediately report the matter to the Commission or one of its appointed representatives.

**§ 185.19. Wagering misconduct.**

A licensee or employee of a licensed racing entity or its concessionaires may not knowingly, by false representation, attempt to cause another person to wager on a horse in a race to be run nor may he demand compensation as a reward for a racing prediction provided to a person or entity for wagering purposes. This does not apply to the vending of newspapers or to other publications approved by the Commission.

**§ 185.20. Spousal disqualification.**

Disqualification of one spouse applies to the other only if it can be demonstrated that the horses owned or controlled by the disqualified spouse are also under the ownership or control of the spouse who has not been disqualified. The Commission shall determine the necessary information, documentation and evidence to demonstrate separate and independent ownership or control of the horse by the non-disqualified spouse.

**CHAPTER 187. RACING VENDORS AND TOTALISATORS—TEMPORARY REGULATIONS**

Sec.	
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187.9.	Penalties and enforcement.

**§ 187.1. General provisions.**

(a) As set forth in section 9351(a.1) of the act (relating to general license requirements), racing vendors and totalisator companies, irrespective of their physical location and operation, seeking to provide racing related services to licensed racing entities within this Commonwealth, must be properly licensed by the Commission in accordance with this chapter.

(1) An incomplete application shall not be reviewed or considered for licensure.

(2) A racing vendor or totalisator system may not begin operations until approved by the Commission or its designee.

(b) In accordance with section 9351(b)(1) of the act, a racing vendor or totalisator license shall be renewed annually.

(1) Racing vendor or totalisator licenses shall not be renewed automatically. The appropriate renewal application shall be submitted on or before 120 days before the expiration of the license term.

(2) If the renewal application is approved by the Commission, the license renewal shall take effect January 1 thereafter.

**§ 187.2. License costs and fees.**

(a) The applicant shall submit, along with its initial license application, the applicable license fees set forth in section 9352(3)(ii) of the act (relating to licensing costs and fees). The applicant shall also pay all costs incurred by the Commission in reviewing an application for an initial license, including any legal and investigative costs and the cost of other necessary outside professionals and consultants as set forth in the act.

(1) Any portion of the payment not required to complete the investigation shall be refunded to the applicant as provided in the act.

(3) To the extent additional costs will be necessary, the applicant shall reimburse the Commission in an amount reasonably requested by the Commission within 10 days of receipt of the request. Failure to submit an additional requested payment shall result in suspension of the processing of the license application and may result in denial of the license.

(b) For purposes of a renewal license, a racing vendor or totalisator company shall submit a renewal application, along with the applicable renewal fee and costs as set forth in section 9352(4)(ii) for the review to the Commission.

**§ 187.3. Application requirements.**

(a) The application for an initial or renewal license for a racing vendor or totalisator company shall be in the form and manner prescribed by the Commission in accordance with the provisions of the act and this chapter. The Commission may deny a license to an applicant that provides false or misleading information or omits mate-



rial information from the application. The SPMO application shall include all of the following:

- (1) The applicant's legal name.
- (2) The location of the applicant's principal office.
- (3) The name, address and date of birth of each principal with a 5% or greater share of ownership or beneficial interest in the applicant.
- (4) Audited financial statements for the last 3 years or, if the applicant does not have audited financial statements, financial and other pertinent information as required by the Commission to determine that the applicant is financially capable of operating as a going concern and protecting accounts.
- (5) A detailed plan of how the applicable racing, wagering or other system to be licensed will operate. The Commission may require changes in the proposed plan of operations as a condition of granting a license. There shall not be subsequent material changes in the plan of operations unless ordered by the Commission or until approved by the Commission after receiving a written request.
- (6) A list of all personnel assigned to work in this Commonwealth including processing wagers on races made by residents of this Commonwealth. This list shall be kept current and be provided to the Commission upon request.
- (7) Copies of all documents required under this subsection by the Commission.
- (8) Certification of compliance with totalisator standards and licensing requirements adopted by the Commission.
- (9) A type II SAS 70 report or other independent report in a form acceptable to the Commission completed within the preceding 12 months, to assure adequate financial controls are in place in the secondary pari-mutuel organization.
- (10) An agreement to allow the Commission, if requested, to inspect and monitor each facility used by the racing vendor or totalisator in the performance of its racing related duties within this Commonwealth.
- (11) Certification of the use of a pari-mutuel system which meets all requirements for a pari-mutuel system utilized by a licensed racing entity in this Commonwealth.
- (12) Written evidence of tax compliance as set forth in section 9361 of the act (relating to tax compliance requirement).

#### § 187.4. Review and approval.

- (a) The Commission shall determine the suitability, fitness and experience of a racing vendor or totalisator company and their key employees, consistent with the public interest, convenience and necessity and the best interests of racing generally.
- (b) As set forth in section 9353(b) of the act (relating to license application procedures), the Commission may also consider the following information in making a determination for a racing vendor or totalisator initial license or renewal application:
  - (1) The integrity of the applicant and its principals, including:
    - (i) Whether the applicant or its principals are unsuit-

able.

- (ii) Whether the applicant or its principals have been a party to litigation over business practices, disciplinary actions over a business license or refusal to renew a license.

- (iii) Whether the applicant or its principals have been a party to proceedings in which unfair labor practices, discrimination or violation of government regulations pertaining to racing or gaming laws was an issue or bankruptcy proceedings.

- (iv) Whether the applicant or its principals have failed to satisfy judgments, orders or decrees.

- (v) Whether the applicant or its principals have been delinquent in filing tax reports or remitting taxes.

- (2) The quality of physical facilities and equipment.
- (3) The financial ability of the applicant to conduct wagering.

- (4) The protections provided to safeguard accounts, including a certification from the licensee's chief financial officer that account funds will not be commingled with other funds as required under this chapter.

- (5) The management ability of the applicant and its principals.

- (6) Compliance of the applicant with applicable statutes, charters, ordinances and administrative regulations.

- (7) The efforts of the applicant to promote, develop and improve the horse racing industry in this Commonwealth.

- (8) The efforts of the applicant to safeguard and promote the integrity of pari-mutuel wagering in this Commonwealth.

- (9) The economic impact of the applicant upon the Commonwealth.

- (10) The racing vendor or totalisator organizations' owners and sources of funds must have sufficient financial means to participate in the applicable pari-mutuel racing related activities, including sufficient assets and means to pay industry-related debts and obligations and to fund the operations of the entity.

#### § 187.5. Good-faith cooperation.

The applicant or licensed racing vendors and totalisators must be fully cooperative and act in good faith with all disclosure and other duties involved in a due diligence investigation, voluntarily submit to regulatory and investigating body oversight, permit inspection of each business record upon request by a regulatory authority or investigating body, promptly honor regulatory or investigating body requests for wagering patterns or other information and, after reasonable notice, permit full access to each facility and property by a regulatory authority or investigating body.

#### § 187.6. Waiver.

A due diligence investigation may rely on an investigation and oversight conducted by a Commission-approved entity or other gaming regulator.

#### § 187.7. Additional application information.

The Commission may request additional information from an applicant if the additional information would assist the Commission in deciding whether to issue or renew a license, including all of the following:

- (1) Copies of any documents used by the applicant in preparing the application.

(2) A list of each contract between the applicant and a third party related to operations. The Commission may review the contracts at any time upon request.

**§ 187.8. Racing vendor or totalisator operations.**

Before doing business in this Commonwealth may also require all of the following from either a racing vendor or totalisator licensee:

- (1) Be qualified to do business in this Commonwealth.
- (2) Submit a copy of each document required to be filed with the Department of Revenue and each document related to an audit or investigation by any Federal, State or local regulatory agency to the Commission.
- (3) Remit to the Commission a copy of each document required to be filed with any Federal, State or local regulatory agency.

**§ 187.9. Penalties and enforcement.**

The Commission shall have all rights, powers and remedies necessary to carry out the provisions of this chapter and to ensure the licensees' compliance with the act, including revocation, suspension or modification of a license and the imposition of fines under section 9325 of the act (relating to power of commission to impose fines).

**CHAPTER 189. NONPRIMARY LOCATIONS—  
TEMPORARY REGULATIONS**

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**§ 189.1. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Applicant*—A duly licensed racing entity seeking to relocate an existing operational nonprimary location or reopening of a previously operational nonprimary location with the Commission.

*Architect*—A person licensed to practice the profession of architecture.

*Center of the racetrack*—The point located at the center of the area circumscribed by the inside rail of the racetrack.

*Charitable institution*—A building occupied in whole or in part by an organization dedicated to the relief of a

certain class of persons either by financial assistance, education or care on a not-for-profit basis and exempt from taxation under the Internal Revenue Code (26 U.S.C.A. §§ 1—7872).

*Church*—A building occupied in whole or in part by an organization engaged in religious worship or instruction.

*Engineer*—A person licensed to practice the profession of engineering.

*Facility*—The buildings or internal areas of buildings under the lease, possession, ownership or control by a licensed racing entity.

*Handle*—The total amount of money wagered.

*Hospital*—A building used in whole or in part for the extended, overnight, medical care of ten or more sick, wounded, aged or infirm persons.

*Local resident*—A person whose residence is within 10 miles of a proposed nonprimary location.

*Nonprimary location*—A facility in which pari-mutuel wagering is conducted by a licensed racing entity in accordance with this chapter other than the racetrack where live racing is conducted. Commonly known as off-track wagering (OTW) facility.

*Public park or playground*—Land owned by the Commonwealth or a county, township, municipality, borough, school district or other governmental unit within this Commonwealth, open to the public for recreational purposes.

*Race related information*—Current odds, program changes, order of finish and other information typically displayed to patrons at the racetrack on the infield tote board, with respect to a race upon which patrons of a nonprimary location may wager.

*School*—A building used during the majority of the calendar year, in whole or in part, for educational or instructional purposes on a not-for-profit basis by an organization accredited by the Department of Education.

*Relocation or Reopen Petition*—shall mean a petition filed with the Commission by a licensed racing entity seeking to relocate an existing operational nonprimary location or to reopen a previously licensed and operational nonprimary location.

**§ 189.2. Applicability.**

(a) In accordance with section 9331(a) of the act (relating to pari-mutuel wagering at nonprimary locations), the Commission may approve a licensed racing entity to continue to operate a nonprimary location where it has previously conduct pari-mutuel wagering on horse races conducted by the licensed racing entity. This chapter applies to the relocation of existing operational nonprimary locations or to the reopening of a previously operational nonprimary location operated by a licensed racing entity.

(b) The chapter shall not apply to a petition by the licensed racing entity for the reconstruction, refurbishment or realignment of the physical facility, layout or floor space of an existing operational nonprimary location.

**§ 189.3. General provisions.**

(a) Only a licensed racing entity may apply for the relocation or reopening of a nonprimary location.

(b) A duly licensed racing entity corporation may seek approval by the Commission for the relocation of an existing operational nonprimary location or for the re-

opening of a previously operational nonprimary location by submitting a Relocation or Reopen Petition with the Commission.

**RELOCATION OR REOPENING OF A  
NONPRIMARY LOCATION**

**§ 189.11. Relocation or reopen petition and fees.**

(a) A relocation or reopen petition, whichever is applicable, shall be in the form prescribed by the Commission and shall be accompanied by the necessary documents, information, architectural renderings, exhibits and any other information requested by the Commission.

(b) The Commission shall establish, adopt and publish the applicable relocation or reopen fee which must accompany the specific petition sought by the licensed racing entity. The licensed racing entity shall reimburse the Commission for any investigative, legal or administrative costs and fees associated with the review and approval of the petition.

**§ 189.12. Filing of a petition; documentation required.**

(a) A petition and the documentation required shall be submitted as follows:

(1) Part I requires the submission of the following information, exhibits and documentation:

- (i) The address of the location or physical location.
- (ii) The name, address and telephone number of the owner of the real estate upon which the location will be situated.
- (iii) A copy of the lease, purchase option or purchase agreement for the location.
- (iv) The zoning of the location.
- (v) A statement indicating whether the location is situated within 300 feet of a church, hospital, charitable institution, school, public park or playground.
- (vi) A pro forma financial statement projecting attendance, handle and revenue at the location.
- (vii) A statement of the projected cost of operation of the location.
- (viii) A statement of the sources of funds used to construct the location including a copy of the loan commitment letter, loan documents or other documents setting forth the terms relating to the financing of the location and a certification that the licensed corporation's State and local tax obligations are not in arrears.
- (ix) A statement of the projected revenue and taxes to be paid to the State and local government.
- (x) The anticipated impact on attendance, handle and purse structure at licensed facilities conducting live racing in this Commonwealth.
- (xi) The areas from which the applicant expects to attract patrons to the location.
- (xii) The population of the area within 35 air miles to the location.
- (xiii) The number and types of full-time and part-time jobs to be created at the location.
- (xiv) The number of jobs at the location to be filled by local residents.
- (xv) The number and types of jobs to be created by the construction or renovation of the location.

(xvi) The distance between the location and racetracks conducting live racing in this Commonwealth.

(xvii) The owner and description of other businesses or uses to be conducted at the location.

(2) Part II requires the submission of the following information, exhibits and documentation:

- (i) The number of floors, total square footage and seating capacity of the facility.
  - (ii) A description of the dining accommodations and concession areas to be contained in the facility, including the types of food and beverages to be available, the seating capacity and a description of the kitchen areas.
  - (iii) The number and location of fire escapes and emergency exits at the facility.
  - (iv) The number of rest rooms to be contained in the facility.
  - (v) A description of the general demeanor of the facility, including its decor and lighting, the type of seating to be provided and the areas of the facility where patrons can handicap races.
  - (vi) A description of the exterior and interior of the facility.
  - (vii) The architectural or engineering drawings of the physical location or internal facility.
  - (viii) A description of the heating, air conditioning, smoke removal and climate control equipment; and smoke and fire detectors to be used in the facility.
  - (ix) The provisions made to assure that the facility is accessible to the physically handicapped.
  - (x) A description of the parking areas to be provided at the location, including the name, address and telephone number of the owner of the parking facilities; a copy of lease agreements for parking; the number of parking spaces to be provided; the charge to be imposed for parking; and a description of traffic control to be provided.
  - (xi) A summary of any contracts relating to, and a complete description of, the pari-mutuel or totalisator equipment to be used in the facility and a statement describing the compatibility of that equipment with the equipment being used at the primary racetrack of the licensed corporation and the equipment in use at the other primary racetracks which will be transmitting their races to the facility. Copies of the contracts may be requested by the Commission.
  - (xii) A summary of contracts relating to, and a description of, the equipment to be used to include money wagered in common pari-mutuel pools, including the number of betting windows and stand-alone terminals to be provided. Copies of the contracts may be requested by the Commission.
  - (xiii) A summary of contracts relating to, and a description of, the equipment to be used for receiving transmissions of races and race related information. Copies of the contracts may be requested by the Commission.
  - (xiv) The name, address and telephone number of persons supplying equipment to the location.
  - (xv) A description of the procedures to be used to resolve patron complaints at the location.
- (3) Part III requires the submission of the following information, exhibits and documentation:



(i) The plan the applicant intends to institute to recruit, train and upgrade employees on an equal opportunity basis.

(ii) Copies of contracts for the provision of goods and services to the location, including a notation of which contracts are with minority or female-owned businesses.

(iii) The name, address and telephone number of the location mutual manager and whether that person is the holder of a license issued by the Commission.

(iv) The name, address and telephone number of the location director of security and whether that person is the holder of a license issued by the Commission.

(v) The name, address and telephone number of the general manager of the location and whether that person is the holder of a license issued by the Commission.

(vi) The names of the vendors and concessionaires providing goods or services, or both, to the location and whether the vendors or concessionaires hold a license issued by the Commission.

(vii) A description of the security plan for the location and a copy of the contracts relating to security at the location.

(viii) A copy of insurance policies applicable to the location.

(ix) A statement indicating whether an application has been made to the Liquor Control Board for a license or the transference of a license, permitting the sale or consumption of alcoholic beverages at the location and action taken on that application.

(x) A statement indicating whether the applicant has entered into an agreement for the simulcasting of races to the location.

(xi) The applicant's strategy for preserving the integrity of live racing in this Commonwealth.

(xii) A copy of building, fire, occupancy, health and sanitation or other permits required by the Commonwealth or a county, township or municipality in which the location is situated.

(b) The Commission and its staff shall make an initial assessment of the specific petition to determine if it is complete, accurate and in accordance with the previous provisions. An incomplete petition or if the appropriate fee is not included with the petition, shall not be reviewed or considered by the Commission.

(c) The Commission may employ the services of architects, engineers, accountants or other specialists to assist in the evaluation of a petition or to inspect work performed at a nonprimary location.

**§ 189.13. Review of petition.**

(a) Prior to granting approval of a petition for the relocation of an existing operational nonprimary location or the reopening of a previously operational nonprimary location by the licensed racing entity, the Commission, will conduct its due diligence and review of the proposed location and facility. To further its review, the Commission may:

(1) Require an oral presentation by the Petitioner as determined by the Commission;

(2) Receive and utilize documents, transcripts and information from other racing, gaming or zoning regulatory entities, in or outside of this Commonwealth;

(3) Seek written public comments from interested persons from the county in which the proposed facility will be located, as set forth in § 189.14 (relating to written public comment);

(4) Conduct a public comment hearing, if necessary, in accordance with the provisions set forth in § 189.15 (relating to public comment hearing); or

(5) Adopt any other procedure deemed necessary and appropriate to assist it in the review of the proposed facility.

**§ 189.14. Written public comment.**

(a) If the Commission determines, in its sole discretion, the need for written public comment relating to the relocation of an existing nonprimary facility or the reopening of a previously operational nonprimary location, the Commission may utilize the following procedures:

(1) The Commission shall provide notice of the licensed racing entity's submitted petition and location at its monthly public meeting immediately following receipt of the petition or it may publish the notification of the licensed racing entity's petition in the *Pennsylvania Bulletin*.

(2) There shall be a 30-day period following notice as set forth in subsection (1) during which written comments may be submitted by interested persons.

(3) Written public comment shall be limited to verifiable residents of the county in which the proposed facility will be relocated or reopened.

(4) Written comments submitted during the 30-day comment period will be retained and incorporated into the record to be reviewed and considered by the Commission.

(b) The purpose of the written public comments is to assist the Commission in assessing the impact the relocation of an existing nonprimary facility or the reopening of a previously operational nonprimary location may have on the local community.

**§ 189.15. Public comment hearing.**

(a) The Commission will provide an opportunity for the licensed racing entity or any other interested agency, person or group of persons within the county where the proposed facility will be located to submit a written request for a public comment hearing regarding the nonprimary location petition.

(b) The written request seeking a public comment hearing must:

(1) be filed within the 30-day time period set forth in § 189.14 (relating to written public comment);

(2) clearly and concisely identify the specific interest of the person filing the request, including name, address, telephone number, of the requesting person; and

(3) set forth the specific reasons why a hearing is warranted.

(c) The Commission shall review the written request for a public comment hearing to determine whether the public comment hearing would assist it in assessing and evaluating the proposed location and whether the petition is consistent with the best interests of racing and the standards for approval set forth in these regulations.

(d) If the Commission determines, in its sole discretion, the need for a public comment hearing relating to the licensed racing entity's petition, the Commission shall:

(1) Inform the requesting petitioner;

(2) Publish notice of the proposed public comment hearing in the *Pennsylvania Bulletin*, post it on the Commission's web site, and if practicable, publish notice of the public comment hearing in a newspaper of general circulation for the county in which the proposed nonprimary facility will be located;

(3) Identify and coordinate with the local municipality the proposed location and time for the public comment hearing;

(4) Designate a Commissioner, assign a hearing officer or appoint another Commission designee to conduct the public meeting and receive public comments;

(5) Develop and post on the Commission's web site the procedures that will be used to conduct the public comment hearings. At its discretion, the Commission may terminate, recess, reconvene and continue the public comment hearing.

**§ 189.16. Intervention in a nonprimary location petition.**

(a) This subsection pertains exclusively to intervention in a petition for the relocation of an existing nonprimary facility or the reopening of a previously operational nonprimary location under this section and is not applicable to other hearings before the Commission. The right to intervene in a hearing under this section is within the sole discretion of the Commission.

(1) A person wishing to intervene in the matter before the Commission shall file a petition to intervene in accordance with this subsection.

(2) A person may file a petition to intervene under this subsection if the person has an interest in the proceeding which is substantial, direct and immediate and if the interest is not adequately or otherwise represented in the matter.

(3) Petitions to intervene in nonprimary location matters shall be filed within 30 days from the date of published notice by the Commission of the receipt of the nonprimary location petition.

(4) Petitions to intervene must set out clearly and concisely the facts demonstrating the nature of the alleged right or interest of the petitioner, the grounds of the proposed intervention, and the position of the petitioner in the proceeding. The petitioner shall fully and completely advise the licensed racing entity and the Commission of the specific issues of fact or law to be raised or controverted and cite provisions or other authority relied upon.

(5) The licensed racing entity seeking the relocation or reopening of the nonprimary location may file an Answer to a Petition to Intervene, and in default thereof, will be deemed to have waived any objection to the granting of the petition. If made, answers shall be filed within 10 days after the date the petition to intervene is filed with the Commission, unless for cause the Commission prescribes a different time. A complete copy of the Answer to the Petition to intervene shall be served on the Commission and the petitioner who seeks to intervene.

(6) Except when the Commission determines that it is necessary to develop a comprehensive evidentiary record, the participation of a person granted the right to intervene in the nonprimary location matter will be limited to the presentation of evidence through the submission of written statements attested to under oath. The written statements shall be part of the evidentiary record.

(b) This section supersedes any conflicting provisions contained in the Commission's administrative regulations

relating to practice and procedure and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

**§ 189.17. Standards for approval.**

(a) Under section 9331 (relating to pari-mutuel wagering at nonprimary locations) of the act, the Commission will consider the following in determining whether to grant or deny approval of a petition:

(1) Whether the proposed relocated or reopened facility contains or has access to amenities such as the restaurants and handicapping facilities required by the act.

(2) Whether the facility will create jobs in the construction and service industries as well as continue to create jobs within the racing and wagering industry.

(3) Whether the facility will have a positive, neutral or negative impact on the integrity of live racing, including its effect on the attendance, handle and purse structure of live racing.

(4) The anticipated impact on the local community, including the potential for job creation on an equal opportunity basis and the effect on local businesses.

(5) The quality of the physical facilities and services to be provided.

(6) The public interest.

(7) Whether the applicant plans to institute measures to ensure that employees are recruited and trained for positions on an equal opportunity basis and that contracting opportunities are open to all firms.

(8) Information, documents or exhibits submitted as part of a petition.

(b) No single factor will be paramount. In rendering a decision, the Commission will determine whether the proposed relocated or reopened nonprimary location is in the best interests of racing.

(c) Approval of a relocated or reopened nonprimary location is granted upon the condition that the licensed racing entity accept and continue to observe the rules of the Commission. The approval of a nonprimary location does not prevent the Commission from ordering modification of the facility or operations at the nonprimary location if the Commission finds evidence of noncompliance with the act, this chapter or that the construction or reconstruction of the facility is not being performed as set forth in the approved petition.

(d) Approval issued by the Commission will contain the following conditions:

(1) The Commission, its agents or employees will have immediate and complete access to the areas where activity is being or will be conducted under the act or this part, as necessary to determine compliance with the act and this part, upon presentation of appropriate credentials and without advance notice or a search warrant.

(2) Records and reports pertaining to activities conducted under the act or this part shall be produced for inspection upon demand by the Commission, its agents or employees.

**REQUIREMENTS FOR THE NONPRIMARY LOCATION**

**§ 189.21. Concessionaires or vendors.**

(a) A person, firm, concessionaire or vendor which holds a concession, right or privilege to perform a service

or sell an item at a nonprimary location operated by a licensed racing entity shall be licensed by the Commission.

(b) The licensed racing entity, if requested by the Commission, shall provide a copy of an audited financial statement reflecting its operations at each nonprimary location.

**§ 189.22. Display of races and race related information at a nonprimary location.**

(a) The following shall be offered to patrons at every nonprimary location:

(1) Audio and video coverage of every race upon which patrons of the nonprimary location are permitted to wager, including coverage of the horses in the paddock and while scoring.

(2) Video coverage of race related information for every race upon which patrons of the nonprimary location are permitted to wager.

(b) A nonprimary location shall be equipped with a system permitting the reception of transmissions of races and race related information without interference or interception.

(c) A licensed corporation operating a nonprimary location shall develop and implement a security system to protect the equipment being used to receive transmissions of races and race related information from tampering.

(d) If the reception of the video coverage of a race is interrupted, the audio coverage of the race shall continue to be presented.

(e) If the reception of the audio coverage off the race is interrupted, the video coverage of the race shall continue to be displayed.

(f) If the reception of the audio and video coverage of a race is interrupted during the running of the race, wagering being conducted on future races at the nonprimary location shall cease until the transmissions are restored. If the interruption of audio or video coverage, or both, prevent the display of a race at the nonprimary location, a replay of the race shall be displayed at the nonprimary location as soon after the restoration of coverage as possible.

(g) At least 30 minutes prior to the beginning of wagering at the nonprimary location, a test of the equipment used to receive and display races and race related information at the nonprimary location shall be conducted to ensure that the system is operating properly.

**§ 189.23. Wagering requirements.**

(a) Wagering on races at a nonprimary location shall be conducted using the pari-mutuel system of wagering.

(b) A nonprimary location shall be equipped with:

(1) A communication system that permits communication among the pari-mutuel department of the nonprimary location and the pari-mutuel department and Judges of racetracks conducting races on which patrons of the nonprimary location may wager.

(2) A system capable of ensuring that money wagered on a particular race is included in the pari-mutuel pool of the racetrack conducting the race.

(3) A system capable of ensuring that pari-mutuel machines at the nonprimary location lock upon the ringing of the bell or upon the closing of wagering for any reason.

(c) Pari-mutuel wagering on races shall be conducted using pari-mutuel tickets sold from machines approved by the Commission. No pari-mutuel machine will be approved unless it is compatible with the system required by subsection (b)(2).

(d) The transmission of wagering data between the nonprimary location and the racetrack conducting a race upon which wagering is permitted shall be independent of the transmission of audio and video coverage of the race and race related information. The system shall be tested at least 30 minutes prior to the beginning of wagering at the nonprimary location.

(e) Patrons at nonprimary locations shall be afforded the same wagering opportunities on a particular race as patrons at the racetrack. Patrons at the racetrack shall be afforded the same wagering opportunities on a particular race as patrons at nonprimary locations. Winning pari-mutuel tickets purchased at a facility within a racetrack enclosure shall be cashed at a facility within the racetrack enclosure.

(f) Persons employed in the pari-mutuel department of a nonprimary location operated by a licensed corporation of the Commission shall be considered pari-mutuel employees of the licensed corporation for purposes of reports to the Commission and the Department of Revenue.

(g) Reports of pari-mutuel wagering required by this part shall reflect the request information separately for each nonprimary location operated by the licensed corporation.

(h) The stop betting command shall be noted by the ringing of the bell at the nonprimary location or other device as approved by the Commission.

(i) A licensed corporation shall submit written notice of its intention to suspend or terminate operations at a nonprimary location at least 60 days prior to the suspension or termination. The 60-day notification period may be reduced by the Commission for good cause shown.

**§ 189.24. Location mutuel manager.**

An individual shall be designated as a location Mutuel Manager at each nonprimary location who shall:

(1) Oversee the pari-mutuel operations at the nonprimary location.

(2) Receive communications from the Mutuel Manager of each racetrack conducting races upon which patrons of the nonprimary location may wager.

(3) Oversee the operation of the equipment being used to include money wagered at the nonprimary location in the pari-mutuel pool at the racetrack conducting the race and suspend wagering at the nonprimary location if the money wagered is not being transmitted to the pari-mutuel pool at the racetrack conducting the race.

(4) Be responsible for ensuring that laws and regulations governing pari-mutuel wagering are observed at the nonprimary location.

(5) Be licensed by the Commission.

**OPERATION OF A NONPRIMARY LOCATION**

**§ 189.31. Maintenance of a nonprimary location facility.**

(a) A licensed racing entity that relocates or reopens a nonprimary location shall:

(1) maintain the grounds, premises, physical facility, internal or external, at the nonprimary location so as to be neat and clean, painted and in good repair, with



special consideration for the comfort and safety of patrons, employees and other persons whose business requires their attendance;

(2) maintain in good working order the equipment being used to transmit and receive audio and video signals, to display the audio and video signals and to include money wagered in common pari-mutuel pools.

(b) Plans for renovations, rehabilitations or changes to be made to a nonprimary location after the beginning of operations shall first be approved by the Commission before being implemented.

**§ 189.32. Impermissible conduct.**

(a) While at a nonprimary location, no person may:

(1) Use improper, profane or indecent language to a racing official, licensee or Commission employee.

(2) Disturb the peace or make himself obnoxious to others.

**§ 189.33. Power of eviction or ejection.**

The licensed racing entity may exercise its statutory authority and common law rights to evict a patron from a nonprimary location if the facility is also located within a licensed gaming facility. If a patron is ejected from the floor of the nonprimary location for lawful reasons, the patron shall not be entitled to a hearing.

**§ 189.34. Inspection authorization.**

(a) The Commission, its agents or employees will have access to, and require the production of, books and papers, documents and physical evidence pertinent to a matter being investigated under the act or this part.

(b) At least annually, the Commission, its agents or employees will inspect the nonprimary location to determine whether the licensed racing entity is maintaining its nonprimary location in good condition and whether adequate provision for rehabilitation and capital improvements has been made.

(c) Inspections of nonprimary locations shall be made during the normal business hours of the nonprimary location.

**§ 189.35. Nondiscrimination.**

A licensed racing entity may not discriminate against an employee, applicant for employment, independent contractor or other person because of race, color, religious creed, ancestry, National origin, age, sex or nonjob related handicap or disability.

**§ 189.36. Admission of minors.**

No licensed corporation may permit a person who is 21 years of age or younger to wager at a nonprimary location. Except that: This section does not prohibit persons 18 years of age or younger who are legally employed from being on the nonprimary location premises for the sole purpose of performing their duties as employees. If the relocated or reopened nonprimary location is constructed within a duly licensed gaming facility or casino, the licensed racing entity may exclude anyone from its facility under the age of 21.

**Subpart C. PARI-MUTUEL WAGERING**

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**CHAPTER 191. GENERAL PROVISIONS—TEMPORARY REGULATIONS**

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191.1.	General requirements.
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**§ 191.1. General requirements.**

(a) Pari-mutuel wagering utilizes a totalisator system to pool wagers. Totalisator companies or providers shall be duly licensed in accordance with the applicable provisions of the act and Chapter 187 (relating to racing vendors and totalisators—temporary regulations) of these regulations. The totalisator system may be located on property of a licensed racing entity or may, subject to compliance with the provisions of the act and these rules, reside at another location.

(b) Wagering subject to approval and compliance with applicable law and rules, may be accepted by separate totalisator systems in this or other jurisdictions, and combined by means of communication between totalisator systems.

(c) The Commission may, without specific reference in these rules, utilize a designee for the purposes of licensing, certification, verification, inspection, testing and investigation. A Commission designee may be another Commission or equivalent regulatory authority, a multi-jurisdictional group of regulatory authorities an association of regulatory authorities or auditing, consulting, security, investigation, legal services, or other qualified entities or persons.

(d) The Commission may enter into multijurisdiction agreements with other regulatory authorities to facilitate certification of compliance with requirements by, and licensing of, totalisator companies, entities providing services for simulcasting and common pool wagering, secondary pari-mutuel organizations, racing vendors and advance deposit account wagering systems. These agreements shall, at a minimum, ensure certification and licensing requirements comparable to this jurisdiction.

**§ 191.2. Definitions.**

The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

*Account*—An account for account wagering with a specific identifiable record of deposits, wagers and withdrawals established by an account holder and managed by the licensed racing entity or secondary pari-mutuel organization.

*Advance deposit account wagering system—ADW system*—A system by which wagers are debited and payouts are credited to an advance deposit account held by a licensed racing entity or by its licensed racing vendor or secondary pari-mutuel organization on behalf of a person.

*Authorized Pari-Mutuel Wagering Entity—APWE*—A duly licensed racing entity, a licensed racing vendor or a licensed SPMO which engage in or conduct all forms of pari-mutuel wagering, including licensed advanced deposit wagering.

*Carryover*—The non-distributed pool moneys which are retained and added to a corresponding pool in accordance with these regulations.

*Common Pool Wagering*—A pari-mutuel wagering pool administered in one jurisdiction which includes legal wagers of a single type placed in more than one jurisdiction on a race or series of races.

*Expired ticket*—An outstanding ticket which was not presented for redemption within the required time period for which it was issued in accordance with the Commission's regulations.

*Independent Real Time Monitoring System*—A system approved by the Commission for the purpose of immediate and continuous analysis of wagering and other pari-mutuel systems data to detect suspect wagering transactions or other activity indicating a possible problem relating to the integrity of the pari-mutuel system and which transmits transactional level data to a wagering security database.

*Interstate off-track wager*—A legal wager placed or accepted in one state with respect to the outcome of a horse race taking place in another state and includes pari-mutuel wagers, where lawful in each state involved, placed or transmitted by an individual in one state by means of telephone or other electronic media and accepted by an off-track betting system in the same or another state, as well as the combination of any pari-mutuel wagering pools.

*Licensed Racing Entity*—Any person that has obtained a license to conduct live thoroughbred or harness horse race meetings respectively with pari-mutuel wagering from the Commission.

*Live Racing Event Host*—A licensed racing entity where live horse racing is conducted and on which pari-mutuel wagering is conducted by secondary pari-mutuel organizations.

*Net amount wagered*—The amount wagered reduced by the retention imposed under the laws of the Commonwealth or another jurisdiction.

*On-track wager*—A wager with respect to the outcome of a horse race which is placed at the racetrack at which the horse race takes place.

*Pari-Mutuel Cash Voucher*—a document or card produced by a pari-mutuel system device on which a stored cash value is represented and the value of which is recorded in and redeemed through the pari-mutuel system.

*Pari-Mutuel Pool Host*—A licensed racing entity that operates and controls access of secondary pari-mutuel organizations to, a pari-mutuel pool.

*Pari-Mutuel Ticket*—A document printed or record produced by a pari-mutuel system device on which is represented a pari-mutuel wager or wagers that have been authorized and accepted for purposes of participation in a pari-mutuel pool.

*Pari-Mutuel System*—The hardware, software and communications equipment used to record wagers, calculate payouts for winning wagers, and transmits wagering transactions and pari-mutuel pool data for display to patrons and to communicate with other pari-mutuel systems linked to facilitate common pool wagering.

*Pari-Mutuel Wagering*—A form of wagering, including manual, electronic, computerized and other forms as approved by the Commission, on the outcome of a horse racing event in which all wagers are pooled and held by authorized pari-mutuel wagering entities for distribution of the total amount, less the deductions authorized by law, to holders of winning tickets.

*Payout*—The amount of money payable to winning wagers.

*Real Time Transaction Monitoring System*—An operating system that can respond to input immediately, within

the actual time in the real world during which an event takes place. The system must be able to react to a steady flow of new information without interruption and perform its tasks within the same time constraints as the totalisator system it monitors.

*Simulcast*—Live video and audio transmission of a race and pari-mutuel information for the purpose of pari-mutuel wagering at locations other than a licensed association where the race is run.

*Takeout*—The total amount of money, excluding breakage, withheld from each pari-mutuel pool, as authorized by section 9335 of the act.

*Totalisator System Standards*—Minimum standards for approval and operation of a pari-mutuel wagering system.

*Wagering Transmission Protocol (WTP)*—A pari-mutuel wagering system protocol that facilitates transmission of wagering transaction detail to a host totalisator.

**CHAPTER 193. PARI-MUTUEL WAGERING AND TICKETS—TEMPORARY REGULATIONS**

Sec.	
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**§ 193.1. Pari-mutuel wagering.**

(a) All licensed racing entities shall use a pari-mutuel ticket machine for the sale of pari-mutuel tickets, unless otherwise authorized by the Commission. All licensed racing entities or other approved entities shall be required to use totalisator systems licensed by the Commission.

(1) No electronic calculator may be deemed one of approved design unless it is capable of registering by automatic electronic or mechanical means on central aggregators all wagers made on each horse, entry, or the field, in each of the straight, place and show pools, and displaying the totals so registered in a way as to permit ready tabulation thereof by the representative of the Commission.

(b) The controls necessary to operate the Odds Board in the infield, relative to the way the horses finish, (if the finish is being contested, if there is a photo, dead-heat, time of race) are to be located in the Judges or Stewards' stand and controlled only by the Judges or Stewards.

**§ 193.2. Sale of pari-mutuel tickets.**

(a) The method of generating and selling pari-mutuel tickets by licensed racing entities or other approved entities shall be approved by the Commission.

(b) Bookmaking or wagering other than pari-mutuel wagering is strictly prohibited.

(c) No minor shall be allowed to wager.

(d) All wagering shall stop and all pari-mutuel machines shall be locked on post time or the actual start of all races, whichever shall first occur. These machines

shall be automatically locked by the control of the Starter or by the Judges or Stewards as either case shall require in each race.

(e) When the sale of pari-mutuel tickets has closed, it shall remain closed until after the race has finished.

(f) No pari-mutuel ticket shall be sold for less than \$2 except with specific approval by the Commission.

(h) The Manager of the Pari-Mutuel Department shall be properly and timely advised by the Judges or Stewards prior to the beginning of wagering on each race, of the horses that will compete in the race and any changes from those listed in the official program.

(i) If less than six interests qualify horses to start in a race, the Manager of the Pari-Mutuel Department, with the consent of the representative of the Commission, may prohibit Show wagering on that race.

(j) If less than five interests qualify horses to start in a race, the Manager, with the consent of the representative of the Commission, may prohibit both Place and Show wagering on that race.

(k) If less than three interests qualify horses to start in a race, the Manager, with the consent of the representative of the Commission may prohibit wagering on the race.

(l) The Manager, with the consent of the representative of the Commission, may prohibit wagering on any particular horse or entry in any race. The consent shall be sought by the Manager of the Pari-Mutuel Department from the representative of the Commission after the entries are closed on the day previous to that during which the races in which exclusions are desired are to be conducted. The exclusions, if consented to by the representative of the Commission, shall be clearly indicated on the program or score card and horses excluded shall be numbered so as to in no way infer that they are coupled in the field. Horses once excluded from the wagering shall remain excluded during the day or race in which they are scheduled to start.

(m) Coupled entries in Daily Double, Twin Double, or Perfecta races shall be allowed as provided in the Commission's regulations.

(n) When one or more horses representing separate interests are started in a race than the number of post positions on the infield tote board, all horses in excess of a number of interests one less than the total number of post positions on the infield tote board shall be grouped in the wagering as the field.

(o) A refund cost value shall be made to all holders of a purchased ticket bearing the number of a horse in any race which has been scratched or withdrawn before said horse has become a Starter in the race under the provisions of this part.

(p) No claims or assertions of any nature relating to any way to any alleged defect, misprint, or other form of error or mistake in the printing, imprinting, sale, or issuance or any pari-mutuel ticket will be entertained or allowed after the purchaser has left his place at the selling window. The act of removal from the selling window by any purchaser shall be conclusively deemed to be an acceptance of a ticket as actually printed and issued and to be an intentional, knowing waiver of any and all defects, mistakes, or errors thereon. Verification of the accuracy of all these tickets shall be the responsibility of the purchasers thereof.

(q) No person shall present or cause any pari-mutuel ticket to be presented or processed in return for payment of any commission, premium, discount, or other consideration of any nature other than the authorized pool payment to be distributed in full to the owner or owners thereof.

### § 193.3. Payments.

(a) Unless otherwise approved by the Commission, payments due on all wagers shall be made in conformity with the well-established practice and procedures of the pari-mutuel system. The practice is to work in dollars and not in the number of tickets. Money wagered on winning tickets is returned in full, plus the profits. In all cases of a winning mutuel pool, each licensed racing entity must redistribute not less than \$2.20 on each \$2 wager, except that in a race in which there is a minus pool, the licensed racing entity must distribute \$2.10 on each \$2 wager.

(b) Payments on all winning pari-mutuel tickets and tickets refundable according to rules shall be made only on presentation and surrender of the appropriate ticket. Mutilated tickets and those whose validity are questioned shall be submitted to the Commission for inspection and approval before payment.

(c) At the end of each race, the Placing Judges or other racing official shall advise the Manager of the Pari-mutuel Department and the representative of the Commission in writing of the official placement of the horses.

(d) If a horse wins and there is no money wagered on him to win, the win pool shall be apportioned among the holders of the place tickets on that horse, if any, otherwise, holders of the show tickets.

(e) If no money has been wagered to place on a horse which is placed first or second in a race, the place pool for that race shall be apportioned among the holders of the place tickets on the other horse which was placed first or second.

(f) If no money has been wagered to show on a horse which has placed first, second or third in a race, the show pool in that race shall be apportioned among the holders of show tickets on the other horses which are placed first, second or third in that race.

(g) In the event that only two horses finish in a race, the show pool shall be figured the same as the place pool and the moneys apportioned to the holders of show tickets on the two finishing horses. In the event only one horse finishes in a race, all three pools shall be figured separately as straight pools and all the moneys shall be awarded to the ticket holders of the finishing horse. In the event no horse finishes the race, then the entire pool shall be refunded to all ticket holders.

(h) If two horses finish in a dead heat for first place, the money in the win mutuel pool is divided between the two dead-heaters according to their proportionate shares in the pool.

(i) If two horses finish in a dead heat for second place, the division is made as follows: there shall be allotted to the pool of the winner of the race one-half of the place pool and the two dead-heaters one-half each of the remaining half of the place pool.

(j) If two horses coupled in the betting as an "entry" or "the field" finish first and second, first and third or second and third, the division of the net show pool shall be as follows: two-thirds of the net show pool shall be allotted to the pool of the entry and the balance one-third to the other horse.



(k) In the event that one horse of the entry or the field finishes first or second and the other part of the entry or field finishes in a dead heat for third with another horse, the division of the net show pool shall be as follows: one-half of the net show pool shall be allotted to the pool of the entry, one-third to the horse finishing first or second, and one-sixth to the horse finishing in the dead heat with the entry for third.

(l) If the entry or field horses should finish first, second and third, then the entire money in each pool goes to the entry or field tickets, no other tickets participating.

(m) If an error is made in posting pay off figures on the public board and no payments have been made, it shall be corrected promptly and a statement explaining the facts made over the public address system forthwith. In the event of an error resulting in overpayment, any payments already made shall be deemed final and the recipients shall be entitled to retain the same. In the event of an error in calculations which results in an under payment and payments have already been made the amount of the under payment shall be promptly ascertained and confirmed by the Commission. Upon the confirmation, the under payment shall be transferred to the next corresponding pool on the racing program of the same day. In the event the amount of the under payment cannot be ascertained and confirmed before the conclusion of the racing program of the day, the under payment shall be escrowed by the Association and distributed in the pools of all races on the daily program next run. No deferred redistribution of any under payment shall be undertaken without prior consent of the Commission. Under payments shall be promptly and fully reported to the Commission. An under payment not distributed or undistributable prior to the end of a meet shall be held in trust and transferred into the next corresponding pool of the next race meeting of the licensed racing entity in question.

(n) All winning pari-mutuel tickets must be presented for payment before April 1st of the year following the year of their purchase and failure to present any ticket within the prescribed period of time shall constitute a waiver of the right to participate in the award or dividend. After April 1st of the year following the year of their purchase, all licensees shall forward to the State Treasurer all funds so held for the uncashed tickets. The Commission shall be notified by the licensee of the amounts so forwarded.

(o) No mutilated pari-mutuel ticket that is not easily identifiable as being a valid ticket shall be accepted for payment.

(p) No person acting alone or in concert with any other party or entity shall deface, alter, change, or attempt to duplicate or reproduce any pari-mutuel ticket or attempt to effect a defacement, alteration, change, duplication or reproduction nor shall any person or persons in any manner attempt to present or negotiate any ticket for payment however or whenever the same may have been defaced, altered, changed, reproduced or duplicated.

(q) No claims for a pari-mutuel ticket which the holder alleges he has lost or claims for a pari-mutuel ticket which is not in the possession of the holder, shall be considered for payment by a licensed racing entity or by the Commission.

#### § 193.4. Daily Double.

(a) No Daily Double shall be conducted without permission of the Commission. There shall be no exchange of

Daily Double tickets after the purchase thereof, all tickets on the Daily Double will be calculated in an entirely separate pool.

(b) To win a Daily Double, it is necessary for the purchaser of a Daily Double ticket to select the winners of each of the two races specified for the double. If either of his selections fails to win, his contract is void, except as hereafter provided.

(c) All tickets will be to win (Straight) only. Horses designated and listed as the "Field," race as one horse in the Daily Double. If two or more horses in a race are listed as "Field" on the same totalisator ticket, there shall be no refunds, unless all the horses so listed are excused before "off" time.

(d) Selections are to be made of one horse for each of two races in the Daily Double by "Tote" program numbers.

(e) If no ticket is sold combining the two winners of the Daily Double, the pool shall then be apportioned equally between those having tickets including the winner in the first race of the Daily Double and those having tickets including the winner in the second race of the Daily Double in the same manner in which a Place Pool is calculated and distributed.

(f) If no ticket is sold on the winner of the first race of the Daily Double on any combination, the entire pool is apportioned to the holder of tickets on the winner of the second race of the Daily Double. Likewise, if no ticket is sold on the winner of the second race of the Daily Double on any combination, the entire pool is apportioned to the holders of tickets on the winner of the first race of the Daily Double.

(g) If a dead heat to win should result in either the first or second race of the Daily Double, the total pool is calculated as a place pool. In case of a dead heat for the winner of the first race of the Daily Double, the posting of payoff prices will be made after winner of second race of the Daily Double is Official.

(h) If no ticket is sold containing the numbers of either winner on any combination, the pool shall be allotted to those having tickets on horses finishing second in each of the two contests, but if there are no wagers, then the entire pool shall be refunded on Double wagers for those contests.

(i) In the event any horse or horses in the first half of the Daily Double should be excused by the racing officials after the horses shall have left the paddock for the post, or after the betting on the Daily Double has been closed, or should any horse or horses in the first half of the Daily Double be prevented from racing because of failure of the starting gate to open, the money wagered on any horse or horses so excused or prevented from racing shall be deducted from the Daily Double Pool and refunded to the purchaser or purchasers of tickets on the horse or horses so excused or prevented from racing.

(1) Should any horse or horses be scratched, excused by the racing officials or prevented from racing because of the failure of the starting gate to open in the last half of the Daily Double, all tickets combining the horse or horses with the winner of the first race of the Daily Double shall become consolation tickets and shall be paid a price per dollar bet determined as follows: the net Daily Double Pool (the gross Daily Double Pool less tax) shall be divided by the total purchase price of all Daily Double tickets designating the winner of the first half of the Daily Double and the quotient attained shall constitute

the price to be paid. The total amount payable on consolation tickets shall be deducted from the net Daily Double Pool.

(j) The possible payoff prices shall be posted or announced to the public before the start of the last race of the Daily Double, and as soon as possible after the horses in the race of the last half of the Daily Double have entered upon the track on the way to the post.

(k) In case the second half of the Daily Double is not raced due to rain, or for any other cause, the entire pool shall be apportioned and paid, less commission, to the holders of tickets on the winner of the first race of the Daily Double.

(1) If a Daily Double is scheduled to be held, subsections (a)—(k) inclusive of this Rule shall be printed on the day's racing program and notice printed on said program as follows: "Retain your tickets until the result of the Daily Double has been posted."

#### § 193.5. Perfecta (Exacta).

(a) No Perfecta (Exacta) wagering shall be conducted without permission of the Commission. The races in which Perfecta (Exacta) type pari-mutuel wagering will be permitted shall only be those designated by the Commission and separate pools shall be established therefor.

(b) To win a Perfecta (Exacta), it is necessary for the purchaser of a Perfecta (Exacta) ticket to select in order the horse declared the winner and the horse declared to have placed in the race in which Perfecta (Exacta) type wagering is permitted. If either of the selections made by the purchaser fails to be declared to have finished in the position designated by the purchaser when purchasing the Perfecta (Exacta) ticket, then the contract is void except as hereinafter provided.

(c) Should there be a dead heat to win in a Perfecta (Exacta) race, holders of tickets combining those two horses in either order will share in the Perfecta (Exacta) payoff. Should there be a dead heat for place, holders of tickets combining the horse declared the winner with either of the horses declared to have finished in the dead heat for place shall share in the Perfecta (Exacta) payoff. In both of the aforementioned instances, the net pool shall be distributed and calculated in the same manner as a Place Pool.

(d) As a profit split to those whose combination included either the first-place betting interest to finish first or the second-place betting interest to finish second, but if there are no wagers on one of those two finishers, then

(1) As a single price pool to those whose combination included the one covered betting interest to finish first or second in the correct sequence, but if there are no wagers, then

(i) The entire pool shall be refunded on Exacta wagers for that contest.

(e) In the event a horse or horses in the Perfecta (Exacta) should be excused by the racing officials after the horses have left the paddock for the post, or after the betting on the Perfecta (Exacta) has been closed, or should a horse or horses in the Perfecta (Exacta) be prevented from racing because of failure of the starting gate to open, the money wagered on the horse or horses so excused or prevented from racing shall be deducted from the Perfecta (Exacta) Pool and refunded to the

purchaser or purchasers of tickets on the horse or horses so excused or prevented from racing.

(f) In the event only one horse finishes the race and is declared the winner, the net pool shall be distributed to holders of Perfecta (Exacta) tickets designating to win the horse declared the winner.

(g) "Fields" are permitted in a Perfecta (Exacta) race. If two or more horses in a Perfecta (Exacta) race are listed as the "Field" on totalisator tickets they shall be counted as a single selection for determining the order of finish. In the event two field entries finish in first and second place, only the one finishing first shall be deemed a winning entry for Perfecta (Exacta) purposes and the next closest non-field entry shall be deemed the second place finisher for Perfecta (Exacta) wagers. There shall be no refunds for field entries, unless all the horses listed in the field are excused before "off" time.

#### § 193.6. Quiniela.

(a) No Quiniela wagering shall be conducted without prior permission of the Commission. The races in which Quiniela-type pari-mutuel wagering will be permitted shall only be those designated by the Commission and separate pools shall be established therefor.

(b) The principle of a Quiniela is, in effect, a contract by the purchaser of a Quiniela ticket to select the first two horses to finish in a race. The order in which the horses finish is immaterial. The Quiniela is not a "parlay" and has no connection with or relation to win, place or show betting, and will be calculated in an entirely separate pool.

(c) In cases of a dead heat between the two horses for first place, the combination shall be the winner of the Quiniela pool.

(d) In case of a dead heat between two horses for second place, the pool shall be figured as a Place pool, the holders of tickets combining the winning horse and the two horses finishing second participating in the payoff.

(e) In case of a dead heat for second place, and no ticket is sold on one of the two winning combinations, the entire net pool shall be calculated as a win pool and distributed to those holding tickets on the winning combination.

(f) If no ticket is sold on the winning combination of a Quiniela pool, the net pool shall be apportioned equally between those having tickets including the horse finishing first and those having tickets including the horse finishing second, in the same manner in which a place pool is calculated.

(g) If no ticket is sold that would require distribution of a Quiniela pool to a winner as above defined, the licensee shall make a complete and full refund of the Quiniela pool.

(h) In case of a scratch in a Quiniela race, the patron holding a ticket on the scratched horse will receive a refund.

#### § 193.7. Trifecta.

(a) No trifecta wagering may be conducted without permission of the Commission. The only races in which "trifecta" type pari-mutuel wagering is permitted, are those races designated by the Commission and a separate pool is established therefor.

(b) The trifecta is a form of pari-mutuel wagering in a single race in which the bettor selects a ticket combining in exact finishing order, as officially posted the first, second and third place winner.

(c) The trifecta is not a parlay and except as set forth in this section, has no connection with or relation to the win, place and show betting and will be calculated as an entirely separate pool.

(d) Trifecta tickets shall be sold in at least \$2 denominations or in denominations as from time to time are approved by the Commission.

(e) If no ticket is sold on the winning combination of a trifecta pool, the net pool shall be distributed to the holders of tickets selecting the win and place finishers in that order. If no ticket is sold combining the win and place finish, the net pool will be distributed to the holders of tickets selecting the winner. If less than three horses finish, the payoff will be made to holders of tickets selecting the finishing horses in order, ignoring the balance of the selection.

(f) If no ticket is sold that would require distribution of the trifecta pool to a winner defined in this section, the licensee shall make a complete and full refund of the Trifecta Pool.

(g) In the event of a dead heat or dead heats, all trifecta tickets selecting the correct order of finish, counting a horse in a dead heat as finishing in either position dead heated, shall be winning tickets. The payoff will be calculated as a place pool by dividing the net trifecta pool by the total purchase price of winning tickets.

(h) In the event of a scratch in the trifecta no exchanges will be made. All tickets which include the scratched horse are eliminated from further participation in the trifecta pool and will be refunded.

(i) Coupled entries and fields are allowed in trifecta races as set forth in the Commission's regulations.

(j) Trifecta tickets shall be sold only by the licensed racing entity or other approved entity. Resale of these tickets from one individual to another is prohibited and shall be grounds for ejection.

(k) Each licensed racing entity shall print in heavy type in a conspicuous place in its daily printed program all the provisions of this section and post printed copies of this section about the track in places as it deems available.

**§ 193.8. Refunds.**

(a) Any ruling of the Judges or Stewards or the Commission with regard to the award of purse money made after the sign "official" has been purposely displayed shall have no bearing on the pari-mutuel payoff.

(b) In all cases when a horse has been excused by a racing official after wagering has started, but before the horses shall have actually started, all money wagered on the horse so excused shall be deducted from the pool and refunded.

(c) If two or more horses in a race are coupled on the same pari-mutuel ticket, there shall be no refunds unless all of the horses so coupled are excused before the actual start.

(d) In the case of a race being declared off or postponed to another day by the Stewards after the wagering has begun, all money wagered in that race shall be refunded.

**§ 193.9. Information required by Commission and Department of Revenue.**

The officers and employees of the licensed racing entity shall promptly give the Department of Revenue and the

Commission the information as they may request from time to time and shall fully cooperate with them in every way.

**§ 193.10. Record of unpaid tickets.**

An itemized record of all unpaid winning pari-mutuel tickets shall be prepared and a complete record thereof, including total, forwarded to the Commission and the Department of Revenue in a timely manner, if requested.

**§ 193.11. Report of handle and attendance.**

On a monthly basis, the licensed racing entity or other approved entity shall provide to the Commission, a report including the following: handle of each race, amount in each pool, Daily Double handle, total daily handle and attendance.

**§ 193.12. Test of equipment.**

All licensed racing entities or other approved entities shall have a test, by actual operation, of the pari-mutuel equipment before the opening of each meeting or prior to beginning operations, which shall be approved by a representative of this Commission.

**§ 193.13. Personnel.**

(a) A list of the personnel of the Pari-Mutuel Department shall be submitted to the Commission for its approval as requested by the Commission.

(b) If requested by the Commission, a copy of the Pari-Mutuel Department payroll shall be submitted to the Commission and shall be accompanied by a statement sworn to by the manager of the Pari-Mutuel Department attesting to the report's accuracy.

**§ 193.14. Odds board.**

A licensee shall provide a sign, approved by the Commission upon which shall be displayed, the approximate straight odds on each horse in a race, the value of a \$2 winning pari-mutuel ticket, straight, place or show on the first three horses in the race; the elapsed time of the race; the value of a \$2 winning daily double ticket; the total amount wagered on each horse and each pool and other information that the Commission may deem necessary.

**§ 193.15. Creation of new betting pools.**

(a) A licensed racing entity seeking to offer new forms of wagering, such as "pick (x)," "instant racing pools," "mix and match" or other similar type pools for its patrons must first apply in writing to the Commission and receive written approval prior to implementing the new betting pool.

(b) For each new betting pool, the licensed racing entity shall provide the rules associated with the betting pool, including:

- (1) description of the game; how to wager;
- (2) take out rates and payout calculations;
- (3) wager amounts;
- (4) coupled entry and mutuel fields and dead heat rules;
- (4) carryover provisions, if applicable;
- (5) other conditions and requirements of the betting game.

(c) A licensed racing entity which seeks to terminate a previously approved betting game/pool shall provide a notice to the Commission 30 days prior to terminating the game/pool.



**CHAPTER 195. SIMULCASTING—  
TEMPORARY REGULATIONS**

Sec.	
195.1.	Live event host—contract.
195.2.	Permitted simulcasts.
195.3.	Intrastate simulcasting.
195.4.	Casino simulcasting.

**§ 195.1. Live event host—contract.**

(a) A live horse racing event host duly licensed by the Commission may, subject to Commission approval of the applicable contract, simulcast its races for the purpose of pari-mutuel wagering to another licensed racing entity or SPMO or other authorized entity.

(b) Unless otherwise permitted by the Commission, every simulcast shall contain in its video content a digital display of actual time of day, the name of the host facility from where the race originates, the number of the contest being displayed and the minutes to post time.

(c) The approved live host licensee, if requested by the Commission, shall provide and maintain security controls including encryption over its uplink and communication systems.

**§ 195.2. Permitted simulcasts.**

(a) *Host licensees*—The Commission may approve the application of a licensed racing entity or secondary pari-mutuel organization to electronically simulcast horse races to and from this Commonwealth. Upon request by a licensed racing entity or secondary pari-mutuel organization, the Commission may designate the entity as a host licensee, authorized to maintain common pari-mutuel pools on International and interstate races transmitted to and from the racetrack enclosures within this Commonwealth.

(b) All simulcasts of horse races shall comply with the provisions of the Interstate Horseracing Act of 1978 (Pub.L. No. 95-515) (15 U.S.C.A. §§ 3001 et seq.) and the laws of each state involved, placed or transmitted by an individual in one state by means of telephone, Internet or other electronic media and accepted and maintained in common pari-mutuel pools.

(c) *Simulcasts*—The following apply:

(1) Cross simulcasting of the races described previously may be permitted if all amounts wagered on the races in this Commonwealth are included in common pari-mutuel pools. A host licensee seeking permission to cross simulcast must obtain approval from the Commission.

(2) All forms of pari-mutuel wagering shall be allowed on horse races simulcasted. The Commission may permit pari-mutuel pools in this Commonwealth to be combined with pari-mutuel pools created under the laws of another jurisdiction and may permit pari-mutuel pools created under the laws of another jurisdiction to be combined with pari-mutuel pools in this Commonwealth.

(c) *Taxation*—Money wagered by patrons in this Commonwealth on horse races shall be computed by the amount of money wagered each racing day for purposes of taxation under section 9334 of the act (relating to State Racing Fund and tax rate). Thoroughbred races shall be considered a part of a thoroughbred horse race meeting and standardbred horse races shall be considered a part of a standardbred horse race meeting.

**§ 195.3. Intrastate simulcasting.**

(a) The Commission shall permit intrastate simulcasting of live horse racing between the licensed racing entities that conduct live racing.

(b) The simulcast signal shall be encoded, and the racetrack receiving the simulcast signal may not send the signal anywhere other than a public location authorized under section 9329 (relating to interstate simulcasting) of the act.

(c) All forms of pari-mutuel wagering described in section 9335 (relating to pari-mutuel pool distribution) of the act shall be allowed on a horse race to be simulcasted under this section.

(d) The money wagered by a patron on a horse race must be computed in the amount of money wagered each racing day for purposes of taxation under section 9334 (relating to State Racing Fund and tax rate) of the act.

**§ 195.4. Casino simulcasting.**

(a) In accordance with Chapter 13F (relating to casino simulcasting) of the Race Horse Development and Gaming Act (4 Pa.C.S. §§ 13F01—13F44) and with 58 Pa. Code Chapter 1001 (relating to casino simulcasting—temporary regulations) of the Gaming Control Board, the Commission shall, in conjunction with, the Board shall review an application for casino simulcasting at licensed simulcasting facilities.

(b) Notwithstanding the provisions of the Gaming Act or of the Board's regulations, the standards and rules of racing, simulcasting and the conduct of pari-mutuel wagering in simulcasting facilities are subject to the act, regulations of the Commission promulgated under 3 Pa.C.S. (relating to Agriculture Code) and the Interstate Horse Racing Act of 1978 (15 U.S.C.A. §§ 3001—3007).

**CHAPTER 197. ADVANCE DEPOSIT ACCOUNT  
WAGERING—TEMPORARY REGULATIONS**

Sec.	
197.1.	License required to conduct advance deposit account wagering.
197.2.	ADW license application.
197.3.	Advance deposit account wagering rules.
197.4.	ADWs in other jurisdictions.

**§ 197.1. License required to conduct advance deposit account wagering.**

(a) In addition to the electronic wagering provisions set forth in sections 9351—9359 (relating to additional licensing requirements for licensed racing entity, secondary pari-mutuel organization, totalisator and racing vendors) of the act and Subpart B (relating to licensing) of the Commission's regulations, a licensed racing entity, a racing vendor providing ADW services on behalf of a licensed racing entity or a SPMO licensed by the Commission to operate in this jurisdiction, may apply for a license to operate an ADW system whereby wagers are debited and payouts are credited to an account held by the licensed racing entity, racing vendor or SPMO on behalf of a person who has applied for the account and been accepted under these rules.

(b) An entity that operates an ADW and is not otherwise involved in pari-mutuel wagering may be licensed as both a SPMO and an ADW in a consolidated licensing procedure as prescribed by the Commission.

(c) A provider of advanced deposit account wagering facilities or systems for an ADW must be licensed by the Commission if account facilities, equipment or personnel are located in this jurisdiction under a contract with a licensed association or SPMO.

**§ 197.2. ADW license application.**

(a) The ADW license application shall include the following information:

(1) A copy of the contracts to provide services to an association or SPMO licensed by the Commission.

(2) A list of personnel assigned to work in this Commonwealth, a list of all employees involved in accepting pari-mutuel wagers placed in this Commonwealth and a list of employees with access to facilities where the wagers are placed, or systems and records relating to account wagering are operated and secured, who are not located in this jurisdiction.

(3) List of all officers, directors, partners, and shareholders with a 5% or greater share of ownership or beneficial interest.

(4) Full disclosure of all fees and other financial considerations relating to the contract with the licensed racing entity or SPMO.

(5) Certify to the Commission that the entity will provide prompt access to reports, logs, wagering transaction detail, and customer account detail, in printed form or standard electronic format approved by the Commission.

(6) Provide a detailed description and certification of systems and procedures used to validate the identity, age, and jurisdiction of legal residence of account holders and to validate the legality of wagers accepted.

(7) Certify to the Commission prompt access to all records relating to customer identify, age, and residency in hard copy or standard electronic format acceptable to the Commission.

(8) Certify to the Commission prompt access to customer account detail in hard copy or an electronic format acceptable to the Commission for:

(i) Persons who place wagers on races conducted in this jurisdiction, customers are identified as legal residents of this jurisdiction, who place wagers on races ran in this jurisdiction and races available for wagering by persons in this jurisdiction,

(ii) Persons the Commission has reason to investigate based on possible placing of wagers for persons other than the account holder, wagers that may be related to the investigation of any race or wagering pattern or relevant to any other investigation as may be determined by the Commission.

(9) Include certification of secure retention of all records related to wagering and customers' accounts for a period of not less than 3 years or longer period specified by the Commission.

(10) Include, as an attachment, a certified copy of rules governing the acceptance and management of accounts, and a certified copy of any changes in the rules at least 30 days prior to the effective date.

(b) All persons employed by ADWs as listed in subsection (a), not licensed by the Commission, shall hold a current pari-mutuel employee or vendor employee license issued by the National License Compact. The ADW shall provide and maintain with the Commission a current list of the employees and including their current National License number.

(c) Must utilize and communicate pari-mutuel wagers to a pari-mutuel system meeting all requirements for pari-mutuel systems employed by licensed racing associations in this jurisdiction.

(d) An ADW must operate and communicate with the totalisator system in a way as not to provide or facilitate a wagering advantage based on access to information and

processing of wagers by ADW account holders relative to persons who wager at race tracks or public off-track wagering facilities. The ADW shall have in place an independent real time monitoring system and use approved by the Commission, and use other procedures as needed, to insure compliance with this requirement.

**§ 197.3. Advance deposit account wagering rules.**

(a) The ADW shall notify the patron, at the time of opening the account, of any rules the association has made concerning deposits, withdrawals, average daily balance, user fees, interest payments and any other aspect of the operation of the account. The ADW shall notify the patron whenever the rules governing the account are changed, the notification occurring before the new rules are applied to the account and including the opportunity for the patron to close or cash-in the account. The patron shall be deemed to have accepted the rules of account operation upon opening or not closing the account. The ADW shall request authorization from the Commission before a system of account wagering is offered.

(b) The ADW may reserve the right at any time to refuse to open an account, to accept a wager or to accept a deposit.

(c) Each account holder shall provide the personal information as the ADW and the Commission require, including an address to which communications are to be delivered. The ADW shall provide each account holder, a confidential account number and password to be used by the patron to confirm the validity of every account transaction.

(d) Deposits may be made in cash, by check or by other methods approved by the Commission. Holding periods will be determined by the ADW and advised to the account holder. A written or electronic receipt for the deposit may be issued to the account holder but does not need to reflect the current account balance.

(e) Each account holder shall be deemed to be aware of the status of that account at all times and shall maintain an adequate fund balance. Wagers will not be accepted which would exceed the available balance of that account. Any account not updated when a transaction is completed shall be inoperable until the transaction is posted and the account balance updated.

(f) When an account is entitled to a payout or refund, said moneys will be credited to the respective accounts, thus increasing the credit balance. It is the responsibility of the account holder to verify proper credits and, if in doubt, notify the association within the agreed upon time-frame for consideration. Unresolved disputes may be forwarded to the Commission by the ADW or the account holder. No claim will be considered by the Commission unless submitted in writing and accompanied by supporting evidence.

(g) The ADW must maintain complete records of every deposit, withdrawal, wager and winning payout for each. These records shall be made available to the Commission upon request.

(h) For wagers made for an account by telephone, the ADW shall make a voice recording of the entire transaction and shall not accept any wager if the voice recording system is inoperable. Voice recordings shall be retained for not less than 6 months and shall be made available to the Commission for investigative purposes.

(i) Any account wagering system must provide for the account holder's review and finalization of a wager before

it is accepted by the ADW. Neither the account holder nor the ADW shall change a wager after the account holder has reviewed and finalized the wager. In the case of a wager made by telephone, the voice recording of the transaction shall be deemed to be the actual wager, regardless of what was recorded by the pari-mutuel system.

(j) The ADW may close any account when the holder thereof attempts to operate with an insufficient balance or when the account is dormant for a period approved by the Commission. In either case, the ADW shall refund the remaining balance of the account to the account holder.

#### § 197.4. ADWs in other jurisdictions.

As a condition of approval of any simulcasting or common pool wagering contract, or both, between a licensed racing entity in this Commonwealth and an ADW in another jurisdiction, the agreement subject to Commission approval, shall include:

(1) Disclosure of all ADWs wagering on any races run in this jurisdiction, and all ADWs wagering on races run in other jurisdictions that would be available for wagering in this jurisdiction, under the contract;

(2) Certification of ADW licensing, authorization or approval by the recognized pari-mutuel authority in the other jurisdiction;

(3) Certification of compliance with rules for operation of an ADW comparable to those stated in § 197.3 (relating to advance deposit account wagering rules);

(4) Full disclosure of all fees, market share revenue and other financial considerations relating to the contract;

(5) Certify to the Commission that it will provide prompt access to reports, logs, wagering transaction detail and customer account detail, in printed form or standard electronic format approved by the Commission;

(6) Provide a detailed description and certification of systems and procedures used to validate the identity, age, and jurisdiction of legal residence of account holders and to validate the legality of wagers accepted;

(7) Include certification to the Commission that it will promptly provide access to all records relating to customer identify, age and residency in hard copy or standard electronic format acceptable to the Commission;

(8) Certify to the Commission that it will promptly provide access to customer account detail in hard copy or an electronic format acceptable to the Commission for:

(i) Persons who place wagers on races conducted in this jurisdiction, customers are identified as legal residents of this jurisdiction, who place wagers on races ran in this jurisdiction and races available for wagering by persons in this jurisdiction,

(ii) Persons the Commission has reason to investigate based on possible placing of wagers for persons other than the account holder, based on wagers placed that may be related to the investigation of any race or wagering pattern, or relevant to any other investigation as may be determined by the Commission.

(9) Include certification of secure retention of all records related to wagering and customers' accounts for a period of not less than 3 years or longer period specified by the Commission;

(10) Include, as an attachment, a certified copy of rules governing the acceptance and management of accounts

and provide a certified copy of any changes in the rules at least 30 days prior to the effective date.

### CHAPTER 199. COMMON POOL WAGERING— TEMPORARY REGULATIONS

Sec.	
199.1.	Authorization of a common pari-mutuel pool.
199.2.	Application for permission to establish a common pari-mutuel pool.
199.3.	Review of application.
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199.10.	Display of racing and wagering information.

#### § 199.1. Authorization of a common pari-mutuel pool.

(a) Upon approval of the Commission, a licensed racing entity, an approved and licensed racing vendor providing racing services to the licensed racing entity or licensed SPMO, or other approved entities, may establish a common pari-mutuel pool with entities permitted under the laws of another jurisdiction to conduct pari-mutuel wagering on the results of horse races. The common pari-mutuel pool may be established to accept wagers on a race conducted outside this Commonwealth.

(b) A common pari-mutuel pool established under this chapter may consist of the amount wagered or the net amount wagered by a patron:

(1) Of the licensed racing entity.

(2) Of another licensed racing entity within this Commonwealth.

(3) Of other approved entities by the Commission.

(4) Under the laws of another jurisdiction.

(c) An individual wager shall be deemed to be made at the point of sale in the jurisdiction where it is placed.

#### § 199.2. Application for permission to establish a common pari-mutuel pool.

(a) The entities set forth in § 199.1 (relating to authorization of a common pari-mutuel pool) may apply to the Commission for permission to establish a common pari-mutuel pool.

(b) An application for permission to establish a common pari-mutuel pool shall be submitted to the Commission at least 30 days prior to the beginning of wagering into the common pari-mutuel pool. The Commission may accept an application filed less than 30 days prior to the beginning of wagering for good cause shown.

(c) An application for permission to establish a common pari-mutuel pool shall be in a form prescribed by the Commission and shall contain the following:

(1) The name of the entity seeking permission to establish the common pari-mutuel pool.

(2) The name, date and jurisdiction of the racetrack conducting the race on which wagers will be accepted for inclusion into the common pari-mutuel pool.

(3) The name and licensing jurisdiction of each entity that will be accepting wagers for inclusion into the common pari-mutuel pool.

(4) A copy of the agreement for the simulcast of the race on which wagers will be accepted for inclusion into the common pari-mutuel pool.



(5) A copy of the agreement among the entities establishing the common pari-mutuel pool.

(6) A copy of the procedures established for administration of the common pari-mutuel pool.

(7) A copy of approvals required under the Interstate Horseracing Act of 1978 (15 U.S.C.A. §§ 3001—3007).

(8) The minimum amount of a wager which will be accepted for inclusion in the common pari-mutuel pool.

(9) The retention rate to be applied to amounts wagered in this Commonwealth for inclusion in the common pari-mutuel pool.

(10) The retention rate to be applied to amounts wagered in each jurisdiction other than the Commonwealth for inclusion in the common pari-mutuel pool.

**§ 199.3. Review of application.**

(a) The Commission may approve an application for permission to establish a common pari-mutuel pool if the Commission determines that the establishment of the common pari-mutuel pool will be in the best interest of racing in this Commonwealth and if the following conditions are satisfied:

(1) The race upon which patrons will be permitted to wager may be simulcast under section 9329 (relating to interstate simulcasting) of the act or under the Interstate Horseracing Act of 1978 (15 U.S.C.A. §§ 3001—3007), or both.

(2) The wager to be accepted is of a type which may be permitted by the Commission under section 9335 (relating to pari-mutuel pool distribution) of the act.

(3) The agreement under which the common pari-mutuel pool will be established and the procedures for the administration of the common pari-mutuel pool comply with the act and this chapter.

(b) The Commission may place conditions on an approval of an application as it deems appropriate to assure that the establishment of the common pari-mutuel pool will be in the best interests of racing in this Commonwealth and in compliance with the act and this chapter.

**§ 199.4. Retention and distribution of retention.**

(a) An approved entity that establishes a common pari-mutuel pool under this chapter shall retain from each wager placed in this Commonwealth an amount equal to the percentage retention rate approved by the Commission.

(b) The Commission will not approve a percentage retention rate which is less than or exceeds the minimum or maximum retention rate permitted for comparable wagers set forth in under section 9335 (relating to pari-mutuel pool distribution) of the act.

(c) A wager placed in this Commonwealth for inclusion in a common pari-mutuel pool established under this chapter shall be included by the approved entity in the amount wagered that racing day. A wager placed in another jurisdiction for inclusion in a common pari-mutuel pool established under this chapter shall be included in the amount wagered that racing day.

(d) Money retained by an approved entity under subsection (a) plus breakage allocated to the approved entity that establishes a common pari-mutuel pool under this chapter, shall be distributed in the same manner as other amounts retained under the act.

**§ 199.5. Distribution of common pari-mutuel pool.**

(a) Money in a common pari-mutuel pool shall be distributed to the holders of winning pari-mutuel tickets in conformity with the common practice of the pari-mutuel system.

(b) Money in a common pari-mutuel pool may be distributed to the holders of winning pari-mutuel tickets according to a net pricing calculation which reflects differing retention rates approved under the laws of the Commonwealth and other jurisdictions accepting wagers for inclusion into the common pari-mutuel pool.

(c) The procedures established for the administration of the common pari-mutuel pool shall include a procedure for the following:

(1) Distributing money in the common pari-mutuel pool to the holders of winning tickets.

(2) Allocating breakage between the entities contributing to the common pari-mutuel pool.

(3) Allocating funds for uncashed winning tickets between the entities contributing to the common pari-mutuel pool.

(4) Providing an accounting to the approved entity for submission to the Commission of contributions to and distributions from the common pari-mutuel pool.

(d) Funds for uncashed winning tickets allocated to an approved entity shall be distributed by the licensed entity as set forth in the act.

(e) If wagers placed in this Commonwealth cannot be transmitted for inclusion in a common pari-mutuel pool established under this chapter, the approved entity may do any of the following:

(1) Refund all amounts wagered to patrons holding pari-mutuel tickets representing wagers placed for inclusion in the common pari-mutuel pool if the refund is announced over the public address system of the approved entity prior to the official start of the race.

(2) Establish a pari-mutuel pool consisting solely of amounts wagered within this Commonwealth.

**§ 199.6. Responsibility for distribution.**

An approved entity that establishes a common pari-mutuel pool under this chapter is liable to the following:

(1) The holder of a winning pari-mutuel ticket representing a wager placed within this Commonwealth for inclusion in the common pari-mutuel pool for the distribution of winnings from the common pari-mutuel pool.

(2) The Commonwealth for other distributions required under the act or this chapter as a result of wagers placed in this Commonwealth for inclusion in the common pari-mutuel pool.

**§ 199.7. Races for which a common pari-mutuel pool is established.**

A race for which a common pari-mutuel pool has been established shall be conducted under the rules of racing of the jurisdiction in which the race is conducted unless that jurisdiction approves otherwise.

**§ 199.8. Publication and posting of rules.**

An approved entity that establishes a common pari-mutuel pool under this chapter shall:

(1) Print a summary of the rules governing wagers into and distributions from the common pari-mutuel pool in its program for the day of the race.

(2) Post a complete copy of the rules governing administration of the common pari-mutuel pool prominently at each betting window or group of betting windows in its racetrack enclosure.

**§ 199.9. Administration of common pari-mutuel pool by an approved entity.**

An agreement under which an approved entity will administer a common pari-mutuel pool shall contain a provision absolving the approved entity from liability if it becomes impossible to include wagers placed in another jurisdiction into the common pari-mutuel pool or if a representative of the Commission or approved entity determines that attempting to include wagers placed in another jurisdiction in the common pari-mutuel pool will endanger the approved entity's wagering pool.

**§ 199.10. Display of racing and wagering information.**

(a) An approved entity which establishes a common pari-mutuel pool under this chapter shall present an audio and video display of the race, including the post parade, upon which patrons may place wagers for inclusion into the common pari-mutuel pool.

(b) An approved entity which establishes a common pari-mutuel pool under this chapter shall present a video display containing wagering information, such as current odds, pari-mutuel pool totals and probable payoffs for the race upon which patrons may place wagers for inclusion into the common pari-mutuel pool.

**Subpart D. STANDARDBRED RULES OF RACING (HARNESS)**

Chap.	
201.	GENERAL PROVISIONS—TEMPORARY REGULATIONS
203.	LICENSING, DUTIES AND RESPONSIBILITIES OF STANDARDBRED OCCUPATIONAL LICENSEES—TEMPORARY REGULATIONS
205.	RULES OF STANDARDBRED RACING—TEMPORARY REGULATIONS

**CHAPTER 201. GENERAL PROVISIONS—TEMPORARY REGULATIONS**

Sec.	
201.1.	Definitions.
201.2.	Licensure.
201.3.	Registration.
201.4.	Regulatory conflicts.

**§ 201.1. Definitions.**

The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

*Added money early closing event*—An event closing in the same year in which it is to be contested in which entrance, sustaining and declaration fees received are added to the purse.

*Age, how determined*—The age of a horse shall be calculated from the first day of January of the year of foaling.

*Allowances*—Given on claiming price in claiming races depending on the sex and age of the horse. Allowances are also given when determining the horse's eligibility in conditioned races based upon age and sex of the horse.

*Also eligible*—One of not more than two horses that are entered to race and determined at the time post positions are drawn to be eligible to start in the race should any horse properly drawn into the race be excused by the Judges prior to scratch time.

*Bleeder*—A horse which has demonstrated external evidence of exercise induced pulmonary hemorrhage.

*Bleeder List*—A tabulation of all bleeders to be maintained by the Commission.

*Break*—A horse's change during a race from its programmed gait to another gait or gallop.

*Chart*—A comprehensive account of a race showing the positions of all horses at various stages of the race.

*Claimant*—A person or entity who meets the eligibility requirements of the racing Commission.

*Claiming price*—The price by which a horse may be claimed from a race.

*Claiming race*—One where a horse which starts may be claimed for a designated amount in conformance with Chapter 205 (relating to rules of Standardbred racing—temporary regulations).

*Conditioned race*—An overnight event to which eligibility is determined according to specified qualifications in conformance with Chapter 205.

*Coupled entry*—Two or more horses starting in a race when owned or trained by the same person or trained in the same stable or by the same management.

*Dam*—The female parent, or mother, of a horse.

*Dash*—A race decided in a single trial. The number of premiums awarded may not exceed the number of Starters in the dash.

*Dead heat*—When the Judges cannot separate two or more horses as to their finishing position at the finish of a race. All unseparated horses are considered to be tied for that finish position. In the event of a dead heat in any positions, points and purses will be divided or shared, or both.

*Declaration*—The naming of a particular horse to a particular race.

*Disqualification*—It shall be construed to mean that the person disqualified is barred from acting as an official or from starting or driving a horse in a race. In the case of a disqualified horse, it may not be allowed to start.

*Draw*—The process by which horses are selected to start in specific races and post positions for each race.

*Driver*—A licensed person who drives a horse in a race.

*Driving violation*—A violation of one or more of the provisions of the Rules of Race in Chapter 205.

*Early closing race*—A race for a definite amount to which entries close at least 6 weeks preceding the race. The entrance fee may be on the installment plan or otherwise, and payments shall be forfeits. No payment on 2-year-olds in early closing events shall be permissible prior to February 15th of the year in which the horse is a 2-year-old.

*Eligibility certificate*—An official written record of a horse. See the definition of "registration" in this section.

*Eligible*—A horse qualified to start in a race and properly entered and meeting the conditions of that race.

*Elimination heats*—Heats of a race split according to Chapter 205 to qualify the contestants for a final heat.

*Exotic wagers*—Those in which the bettor selects more than two horses in one or more races in a single wager.

*Expulsion*—The unconditional exclusion and disqualification from a participation, either directly or indirectly, in the privileges and uses of the course and grounds of the association of a licensee or patron.

*Futurity*—A stake in which the dam of the competing animal is nominated either when in foal or during the year of foaling.

*Gait*—Either a trotting or pacing gait.

*Gelding*—A neutered or castrated male horse of any age.

*Go*—The voice command given by the starting Judge to all drivers at the start of the race.

*Guaranteed stake*—A stake with a guarantee by the party sponsoring it that the sum may not be less than the amount named.

*Handicap*—A race in which performance, sex or distance allowance is made. Post positions for a handicap may be assigned by the racing secretary.

*Head number*—The wagering number for the horse or, in the case of a coupled entry, the wagering number of all horses that make up the coupled entry.

*Head Pole*—A piece of equipment used to control the position of a horse's head.

*Heat*—A single race or a single trial of a race that is one of a series of races that make up an event.

*Hobbles*—A leg harness used for controlling the gait of a pacer or trotter.

*In harness*—The horses participating shall be attached to a dual shaft sulky. Sulkies used in a race shall be equipped with unicolored or colorless wheel discs of a type approved by the Commission and placed on the inside and outside of the wheel. A change in the basic design of a sulky or major equipment shall require Commission approval. Rules, regulations, standards, guidelines affecting the use of any new sulky or equipment shall be approved by the Commission before their adoption.

*Inquiry*—When the Judges suspect that a foul or another misconduct occurred during a heat or dash.

*Interference*—An act, which by design or otherwise, hampers or obstructs a competing horse or horses.

*Judges*—The term "Judges" unless otherwise specified shall refer to the Board of Judges.

*Lasix*—An approved drug used as treatment of pulmonary bleeding. Also known as Furosemide.

*Late closing race*—A race for a fixed amount for which nominations or declarations close less than 6 weeks and more than 3 days before the race is to be contested.

*Length of race and number of heats or dashes*—Races or dashes shall be given at a stated distance in units not shorter than 1/16 of a mile. The length of a race and number of heats shall be stated in the conditions. If no distance or number of heats or dashes are specified races shall be a single-mile dash or heat. No 2-year-old shall be permitted to start in a dash or heat exceeding 1 mile in distance.

*Maiden*—A stallion, mare or gelding that has never won a heat or race at the gait at which it is entered to start and for which a purse is offered.

*Mare*—A female horse 4 years of age or older.

*Match race*—A race which has been arranged and the conditions thereof agreed upon between or among the contestants.

*Mutuel field*—When the individual horses competing in a race exceed the numbering capacity of the Tote, the highest numbered horse capacity of the Tote and horses of

a higher number shall be grouped together and called the mutuel field for betting purposes only.

*No contest*—A race that is voided for any reason by the Judges.

*Nomination*—The naming of a horse or in the event of a futurity the naming of a foal in utero to a certain race or series of races, eligibility of which is conditioned on the payment of a fee at the time of naming and payment of subsequent sustaining fees or declaration fees, or both.

*Nominator*—The person or entity in whose name a horse is nominated for a race or series of races.

*Objection*—A complaint by a driver of a foul driving or other misconduct occurring during a heat or dash.

*Overnight race/event*—A race for which entries close not more than 3 days (omitting Sundays) before the race is to be contested. In the absence of conditions or notice to the contrary, entries in overnight events may close not later than 12 p.m./noon the day preceding the race. A pari-mutuel association may not demand declaration fees from owners or trainers of horses competing in an overnight event.

*Owner*—Includes sole owner, part owner or lessee of a horse.

*Paddock*—An enclosure in which horses scheduled to compete in a race program are confined prior to racing under the supervision of a paddock Judge.

*Pennsylvania-bred for pari-mutuel or fair division of sire stakes*—Horses sired by a stallion registered with the Commission in conformity the Commission's regulations relating to registration and licensure. Naming of these horses shall be limited to standardbred horses which were sired by a standardbred stallion standing his full season in this Commonwealth.

*Post position*—The position drawn by the horse at the time declarations close.

*Post time*—The time set for the start of a race.

*Programmed trainer*—The person who assumes responsibility for a horse from the time it is entered to race until the conclusion of the race.

*Protest*—An objection, properly sworn to, charging that a horse is ineligible to race, alleging an improper entry or declaration, or citing an act of an owner, driver or official prohibited by the provisions of this chapter, and which, if true, shall exclude the horse or driver from the race.

*Qualifying Race*—A race in which a horse must establish its ability to participate at a race meeting consistent with the qualifying standards establish for that class of horse.

*Race*—A contest of speed between Standardbreds at a trotting or pacing gait.

*Race officials*—The term may include the following:

- (i) Board of Judges
- (ii) Racing secretary
- (iii) Paddock Judge
- (iv) Horse identifier
- (v) Clerk of the course
- (vi) Starter
- (vii) Charter/Timer
- (viii) Patrol Judge
- (ix) Commission Veterinarian
- (x) Racetrack veterinarian



Or any other person designated by the Commission as a racing official.

*Record*—The fastest time made by a winning horse in a heat or dash, in compliance with the requisites of racing.

*Registration*—A certification of ownership, except where there is a direct conflict with the rules, regulations or laws of the Commission, matters regarding registration and eligibility certificates shall be governed in accordance with the rules and regulations as set forth by the USTA.

*Rules*—The rules and regulations promulgated by the Commission.

*Scoring*—The preliminary practice taken by the horses in a race after the post parade and before they are called by the Starter to line up for the start.

*Scratch*—The removal of a horse from a race after its entry has been accepted.

*Scratch time*—The time specified for making final changes to the official program prior to publication, at which time, any “also eligible” horses in the programmed race are released.

*Spayed mare*—A female horse who has had her ovaries removed.

*Stake*—A race that shall be contested in a year subsequent to its closing in which the money given by the licensed racing entity conducting the race is added to the money contributed by the nominators, which belong to the winner or winners.

*Starting point*—The point marked on the inside rail where the Starter gives the word “Go.”

*Starters*—A group of horses competing in a heat or race.

*Timed workout*—Permitted instead of a qualifying race for a horse to establish its ability to participate at a race meeting consistent with the qualifying standards established for that class of horse.

*USTA—United States Trotting Association*—The National not-for-profit association of Standardbred owners, breeders, drivers, trainers and officials organized to provide administrative, rulemaking, licensing and breed registration services and documentation.

*Walk-over*—When only horses of the same interest start, a walk-over results. In a stake race a walk-over is entitled to stake money and forfeits unless otherwise provided in the published conditions. To claim the purse, the entry shall start and go once over the course unless this requirement is waived by the Judges.

*Winner*—The horse whose nose reaches the wire first. If there is a dead heat for first, both horses shall be considered winners. Where two horses are tied in a summary, the winner of the longer heat shall be entitled to the trophy. Where the heats are of the same distance and the horses are tied in the summary, the winner of the fastest heat shall be entitled to the trophy.

*Wire*—A real or imaginary line from the center of the Judge’s stand to a point immediately across, and at right angles to the track.

#### § 201.2. Licensure.

(a) No person shall participate in the affairs of any licensed racing entity as director, officer, agent or employee of the entity without first receiving a license from the Commission.

(b) In addition to the requirements set forth in Chapter 185 (relating to occupational licenses—temporary regula-

tions), no person shall participate in any harness horse race meet as an official, driver, trainer or assistant trainer unless the person shall first have received a license from the USTA and this Commission. The Commission may issue temporary licenses or restricted licenses as it may deem necessary and desirable.

#### § 201.3. Registration.

All matters relating to the registration of Standardbred horses, unless otherwise provided for herein, shall be governed by the Rules of the USTA. Pennsylvania stallions, to be eligible for Pennsylvania Sire Stakes for any given year, shall have on file a Stallion Certificate of Eligibility no later than December 1 of the preceding year with the Commission.

#### § 201.4. Regulatory conflicts.

All duly licensed race meetings and pari-mutuel wagering activities conducted within this Commonwealth shall be governed by the provisions of the Act and the Commission’s regulations. If there is a conflict between the Commission’s regulations and the rules/regulations adopted by the USTA, the Commission’s regulations shall control. Except: in the event there is no provision or regulation to cover a specific matter, the Commission may utilize the published rules and regulations of the USTA.

### CHAPTER 203. LICENSING, DUTIES AND RESPONSIBILITIES OF STANDARDBRED OCCUPATIONAL LICENSEES—TEMPORARY REGULATIONS

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**§ 203.1. Standardbred license categories.**

(a) Standardbred license categories shall include the following and others as may be established by the Commission in its discretion:

(1) racing participants and personnel (including owner, authorized agent, trainer, assistant trainer, driver, groom, veterinarian, veterinary assistant, Farrier and stable employees);

(2) standardbred racing officials (including Judges, race secretary, patrol Judge, paddock Judge, official Starter, clerk of the course/charter, timer/clocker, program director, Commission Veterinarian and racetrack veterinarian);

(3) persons employed by the licensed racing entity, by a racing vendor or any other person whose employment at the racetrack enclosure requires their presence in a restricted area, or which requires their presence anywhere on racetrack grounds while pari-mutuel wagering is being conducted;

(b) Persons required to be licensed shall submit a completed application on forms furnished by the Commission and accompanied by the required fee as set forth in Chapter 185 (relating to occupational licenses—temporary regulations). Persons may also be required to provide proof of identity and proper employment authorization.

(c) License applicants may be required to furnish to the Commission a set of fingerprints and a recent photograph and may be required to be re-fingerprinted or re-photographed periodically as determined by the Commission.

**§ 203.2. Knowledge of rules.**

A licensee shall be knowledgeable of the rules and regulations of the Commission and by acceptance of a license issued under Chapter 185 (relating to occupational licenses—temporary regulations) agrees to abide by these rules.

**§ 203.3. License presentation.**

When requested by Commission personnel or licensed racetrack security, a person shall present an appropriate license to enter a restricted area. A license may only be used by the person to whom it is issued. The licensed racing entity, in consultation with the Commission, may establish procedures and protocols for the visible display of a license while in the racetrack enclosure, including the restricted area.

**§ 203.4. Visitor's pass.**

Track security may not grant unlicensed persons temporary access to restricted areas unless that person is accompanied at all times while on the grounds of the racetrack. The unlicensed persons shall be identified and their purpose and credentials verified and approved in writing by racetrack security. A copy of the written approval shall be filed with the Commission or its designee within 48 hours. This authorization or credential may only be used by the person to whom it is issued.

**§ 203.5. Breath analyzer requirements.**

(a) To promote the health, safety and welfare of all racing participants and the integrity of racing in which they are participating, the following individuals shall be required to submit to a breath analyzer test at each racing program:

(1) Drivers, Judges, Starters, starting gate drivers and other racing officials designated by the Presiding Judge;

(2) Trainers and grooms randomly selected and designated by the Presiding Judge or other Commission official;

(3) Commission employees whose duties relate to the integrity of racing, including but not limited to the Judges, managers, investigators, livestock workers, Commission Veterinarians and any other Commission employee as required by the Commission.

(b) Participants must have a breath analyzer reading below .035%. Participants demonstrating a level above .035% shall be not permitted to participate in the racing program that day.

(c) Failing the breath analyzer test shall subject the licensee to the following penalties:

(1) First offense—\$500 dollar fine and 5-day suspension;

(2) Second offense—\$750 dollar fine and 10-day suspension;

(3) Third offense—refer to Bureau Director.

**OWNERS**

**§ 203.11. Licensing requirements for owners.**

(a) Each person desiring to enter a standardbred horse at a race meeting within this Commonwealth and who has a 5% or more ownership or beneficial interest in a horse is required to be licensed under these provisions.

(b) An applicant for an owner's license shall own or lease a horse which is eligible to race, registered with the race secretary and under the care, custody and control of a duly licensed trainer in good standing by the Commission. An owner shall immediately notify the Judges of a change in trainer. A horse shall not be transferred to a new trainer after entry.

(c) Notwithstanding § 185.6 (relating to age requirement) of the Commission's regulations, a horse owner of any age may apply for an owner's license. If younger than 18 years of age, an applicant for an owner's license shall submit a notarized affidavit from the applicant's parent or legal guardian stating that the parent or legal guardian assumes responsibility for the applicant's financial, contractual and other obligations relating to the applicant's participation in racing.

(d) Each licensed owner is responsible for disclosure to the Commission or its designee of the true and entire ownership of each of the owner's horses registered with the racing secretary. Any change in ownership or trainer of a horse registered with the race secretary shall be approved by the Judges. Each owner shall comply fully with the applicable licensing requirements set forth in Chapter 185 (relating to occupational licenses—temporary regulations).

(e) Every applicant for an owners' license shall furnish a completed application form, the necessary license fee, information relating to horse ownership and shall, if requested, submit fingerprints. An owner is subject to all the rules and regulations of the Commission. Any viola-

tion of the rules of racing shall subject the owner to the penalties set forth in the Commission's regulations.

**§ 203.12. Reinstatement of owner's license.**

A license may be reinstated by the Commission, in its discretion, upon application and upon the terms as the Commission may prescribe.

**§ 203.13. Transfer to ineligible trainer.**

(a) The Commission or its Judges may refuse, deny, suspend or revoke an owner's license for the spouse or member of the immediate family or household of a person ineligible to be licensed as an owner, unless the applicant or licensed owner demonstrates that participation in racing will not permit a person to serve as a substitute or hidden trainer for an ineligible person. The transfer of a horse to a spouse, member of the immediate family or household or employee to circumvent the ineligible status of the owner of the horse is prohibited.

(b) An owner shall not intentionally and knowingly employ a suspended trainer.

(c) In an effort to prevent owners or trainers from utilizing hidden trainers, the Commission may require from an owner or trainer applicable financial, business or other information, including invoices, Veterinarian records and the like to determine the validity of the employment of the trainer.

**§ 203.14. Licensing requirements for multiple owners.**

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

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

(c) Each partnership, corporation, limited liability company, syndicate or other association or entity which includes an owner with less than a 5% ownership or beneficial interest shall file with the Commission an affidavit which attests that, to the best of their knowledge, every owner, regardless of their ownership or beneficial interest, is not suspended in any racing jurisdiction and is presently eligible for licensing.

(d) Application for joint ownership shall include a designation of a managing owner and a business address. Receipt of any correspondence, notices or orders from the Commission at this address shall constitute official notice to all persons involved in the ownership of the horse. The written appointment of a managing owner or authorized agent shall be filed with the Commission.

**§ 203.15. Lease agreements.**

A horse may be raced under lease provided a completed breed registry or other lease form acceptable to the Commission is attached to the certificate of registration and on file with the Commission and the USTA. The lessor and lessee shall be licensed as horse owners.

**§ 203.16. Stable name registration.**

Licensed owners and lessees may adopt a stable name subject to the approval of the Commission.

(1) The applicant shall identify all persons using the stable name. Any changes shall be reported immediately to the Commission.

(2) A person who has registered a stable name may cancel it upon written notice to the Commission.

(3) A stable name may be changed by registering a new stable name.

(4) A stable name which has been registered by any other person will not be approved by the Commission. The Commission may prohibit the use of any name which is misleading to the public or unbecoming to the sport.

(5) A stable name shall be clearly distinguishable from other registered stable names.

(6) The stable name or the name of the owner shall be published in the program. If the stable name consists of more than one person, the program shall list the name of the managing owner along with the phrase "et al."

(7) All persons using a stable name shall comply with all rules regarding licensing of owners.

(8) Each member of the stable must sign a document designating the name and address of the corresponding officer.

**§ 203.17. Transfer of ownership.**

Once a horse has been registered with the USTA or a similar registration entity, the horse may not be transferred to a new owner, unless claimed, without permission of the Presiding Judge who may require a bona fide bill of sale signed by both buyers and sellers and the transfer of ownership must be timely reported to the USTA or a similar registration entity.

**TRAINERS AND GROOMS**

**§ 203.21. Eligibility for trainer's license.**

(a) A person shall not train horses or be programmed as trainer of record at race meetings without first being duly licensed by the Commission. The applicant must satisfy the Commission that the applicant possesses the necessary qualifications, both mental and physical, to perform the duties required. The Commission may deem a trainer as qualified for licensing if the applicant has obtained a USTA trainer's license for the current year.

(b) In addition to the general licensing requirements set forth in Chapter 185 (relating to occupational licenses—temporary regulations), an applicant for a license as a standardbred trainer shall comply with the provisions set forth in the USTA, Rule 17 and the following:

(1) Be at least 18 years of age;

(2) Submit evidence of good moral character;

(3) Furnish a complete and truthful application;

(4) If requested, submit evidence of the applicant's physical ability to train and manage horses or a physical examination;

(5) Submit names of at least six currently licensed trainers or currently licensed drivers, or both.

(c) Evidence of qualifications, as determined by the Commission, shall also require passing all of the following:

(1) A written examination;

(2) A demonstration of practical skills including the ability to harness and equip a horse properly and to establish proficiency in handling a horse; and

(3) An interview with the Judges.



(d) Upon timely request to the Judges due to disability or other factors affecting the applicant's ability to effectively complete the trainer's test (such as illiteracy or language barriers), reasonable accommodations may be made for the applicant including, but not limited to oral administration of the examination, use of a pre-approved translator and aid from pre-approved assistant where deemed appropriate by the Judges administering the examination.

**§ 203.22. Trainer responsibility rule.**

(a) The trainer is responsible for the condition of the horse entered in an official workout or race and is charged with the responsibility to guard and protect the horse at all times regardless of the trainer's location. The trainer shall be responsible for the presence of any prohibited drug, medication, agent or other substance, including permitted medications in excess of the maximum allowable level, in the horses. A positive test for a prohibited drug, medication or substance, including permitted medication in excess of the maximum allowable level, as reported by the Commission's testing laboratory, is prima facie evidence of a violation of this rule. In the absence of substantial evidence to the contrary, the trainer shall be responsible.

(b) A trainer shall prevent the administration, attempted administration or passive contamination by others, including the trainers' employees and assistants who have care, custody and control of the horse from any drug, medication or other prohibited substance that may cause a violation of these rules.

(c) A trainer shall immediately report to the Judges and the Commission Veterinarian if the trainer knows, or has cause to believe, that a horse in the trainer's care, custody or control has received any prohibited drugs or medications.

**§ 203.23. Duties of trainers.**

(a) A licensed trainer may represent the owner in entries, declarations and other racing related matters. A licensed trainer may not have an interest, whether by ownership or lease, in a horse not being trained by the licensed trainer at a race meeting where the trainer is operating.

(b) A trainer who represents or files an application for an unlicensed owner shall file with the Commission an affidavit certifying that the trainer will secure a license for the owner within 30 days. The trainer or owner shall be jointly responsible for ensuring the timely and accurate filing of the owner's application. Failure of either to properly secure a license for the owner, may subject both the owner and trainer to a sanction or penalty.

(c) When a trainer is to be absent from the trainer's stable or the grounds where the trainer's horses are racing for a period of more than 2 days and horses are entered or are to be entered, the trainer shall provide a licensed trainer to assume the complete responsibility of the horses entered to run or running. The licensed trainer shall sign in the presence of the Judges a form furnished by the Commission accepting complete responsibility for the horses being entered and running. This section does not apply to trainers having in their employ a licensed assistant trainer.

(d) A trainer may not enter or start a horse that:

(1) Is not in serviceable, sound racing condition;

(2) Has its median, volar or plantar nerves either blocked or removed. The horse is not permitted to race on

a Commonwealth standardbred racetrack. A horse which has been nerved below the fetlock (digital nerves) may be permitted to start;

(3) The trainer knows or has reason to know that the horse has been given, either internally or externally, a stimulant, depressant, narcotic drug, medication or other foreign substance prior to the race; and

(4) Is on the Judges' List, Starter's List or Veterinarian's List in any racing jurisdiction.

**§ 203.24. Other duties and responsibilities of trainers.**

In addition to the duties and responsibilities set forth in §§ 203.22 and 203.23 (relating to trainer responsibility rule; and duties of trainers), a trainer shall also be responsible for:

(1) The condition and contents of stalls, tack rooms, feed rooms and other areas which have been assigned by the licensed racing entity;

(2) Maintaining the assigned stable area in a clean, neat and sanitary condition at all times;

(3) Ensuring that fire prevention rules are strictly observed in the assigned stable area;

(4) Providing a list to the Commission of the trainer's employees on the racetrack grounds and any other area under the jurisdiction of the Commission. The list shall include each employee's name, occupation, social security number and occupational license number. The Judges shall be notified by the trainer, in writing, within 24 hours of any change to the employee list;

(5) Ensuring the adequate care, custody, condition, fitness, health, safety and security of horses under the trainer's care, custody and control;

(6) Disclosing the true and entire ownership of each horse the trainer's care, custody or control. Any change in ownership shall be reported immediately to, and approved by, the Judges and recorded by the race secretary;

(7) Training all horses owned wholly or in part by the trainer which are participating at the race meeting;

(8) Registering with the race secretary each horse in the trainer's charge within 24 hours of the horse's arrival on the licensed racetrack facility grounds;

(9) Ensuring that, at the time of arrival at a licensed racetrack, each horse in the trainer's care, custody or control is accompanied by a valid health certificate (Coggins) which shall be filed with the race secretary;

(10) Immediately reporting the alteration of the sex of a horse in the trainer's care to the horse identifier and the race secretary, whose office shall note the alteration on the certificate of registration;

(11) Promptly reporting to the race secretary and the Commission Veterinarian any horse on which a posterior digital neurectomy (heel nerving) is performed and ensuring that the fact is designated on its certificate of registration;

(12) Promptly notifying the Commission Veterinarian of any suspected or actual knowledge of a reportable disease and any unusual incidence of a communicable illness in any horse in the trainer's care;

(13) Promptly reporting the death of any horse in the trainer's care while on the licensed racing entity grounds to the Judges and the Commission Veterinarian and complying with the rules and regulations governing post-mortem examinations;

(14) Representing an owner in making entries and scratches and in all other matters pertaining to racing;

(15) Horses entered as to eligibility and by gait, age, sex, number of wins, earnings or claiming price;

(16) Ensuring the fitness of a horse to perform reasonably at the distance entered;

(17) For having the entered horse standing by and ready for the pre-race veterinary examination (racing soundness examination) to be conducted by the Commission Veterinarian or designee. The trainer shall have all bandages, blankets and muzzles off and horse's legs clean and free of substances, sweats or leg medications;

(18) For participating and assisting the Commission Veterinarian with pre-race examination tasks including the safe restraint of the horse, tattoo identification or jogging the horse as requested. Failure by the trainer or assistant trainer to comply with the direction, request or requirement issued by the Commission Veterinarian during the course of a pre-race examination shall result in the horse being scratched from the race and disciplinary action being taken against the trainer;

(19) Ensuring that the trainer's horses are properly shod, bandaged and properly equipped;

(20) Ensuring that all Lasix horses entered to compete shall be present on racetrack grounds no less than 4 hours prior to the scheduled post time of the race for which the horse is entered to compete and non-Lasix horses shall be present on racetrack grounds no less than 2 hours prior to the scheduled post time of the race. Horses not arriving on racetrack grounds in accordance with the previously mentioned times may be scratched or fined with discretion given to the Board of Judges to consider extenuating circumstances;

(21) Presenting the horse in the paddock at least 2 hours before post time or at a time otherwise appointed before the race in which the horse is entered and personally attending to the horse in the paddock, unless excused by the Judges;

(22) Instructing the driver to give the driver's best effort during a race and that each horse shall be driven to win;

(23) Attending the collection of post-race urine and blood samples from the horse in the trainer's charge or delegating a licensed employee or the owner of the horse to do so; and

(24) Notifying horse owners upon the revocation or suspension of the trainer's license. A trainer whose license has been suspended or whose 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 Judges may approve the transfer of the horses to the care of another licensed trainer, and upon approved transfer, the horses may be entered to race. Upon transfer of the horse, the inactive trainer shall not be involved in any arrangements related to the care, custody or control of the horse and shall not benefit financially or in any other way from the training of the horse.

**§ 203.25. Trainer treatment records.**

(a) A trainer shall accurately document and maintain a record or log of all trainer treatments for every horse in

the trainer's care, custody or control. Each treatment by the trainer shall be recorded within 24 hours of administration. The trainer treatment log shall be maintained electronically or on paper.

(1) Treatment, for the purposes of this section, means any medication or procedure containing a medication administered to a horse by a licensed trainer or the trainer's designee.

(2) Treatment, for the purposes of this section, specifically excludes medications or procedures administered by a veterinarian licensed by the Commission.

(3) This section includes the administration of medications that are prescribed by a veterinarian but administered by the trainer or his or her designee.

(4) This section also includes those treatments that are administered by a veterinarian not licensed by the Commission.

(b) Trainer treatment records or log as required in subsection (a) must include the following information:

(1) The name of the horse (or, if unnamed, the registered name of the dam and year of foaling);

(2) The generic name of the drug (for example, phenylbutazone, methocarbamol);

(3) The name and address of the prescribing veterinarian;

(4) The brand name of the drug if a non-generic is used;

(5) The date of the treatment;

(6) The route and method of administration;

(7) The dosage administered;

(8) The approximate time (to the nearest hour) of each treatment;

(9) The first and last name of the individual that administered the treatment; and

(10) The treating veterinarian shall sign or initial the trainer's treatment log on the first day a horse receives a prescription medication.

(c) The trainer's treatment records or log shall be made available for inspection upon a request by the Commission in the course of an investigation of a possible violation of the medication and drug rules. Failure to provide accurate and complete trainer treatment records shall result in disciplinary action

(d) Copies of trainer treatment records must be maintained for at least 6 months.

**§ 203.26. Corticosteroid and intra-articular injection reporting requirements.**

(a) Trainers or their designees shall accurately keep and maintain complete records of all corticosteroid and intra-articular injections for all horses in the trainer's care, custody or control. Complete corticosteroid and intra-articular injection reports shall include:

(1) The date of the injection;

(2) The name of the veterinarian performing the injection;

(3) The articular space or structure injected;

(4) The medication or biologicals used to inject each articular space; and

(5) The dose in milligrams of each corticosteroid used.

(b) This information shall be maintained for a minimum of 60 days to facilitate compliance with this regulation. If a horse is successfully claimed by a new owner, the trainer of record at the time of that claiming race must provide that horse's complete corticosteroid and intra-articular injection report for the previous 30 days.

(c) The previous reports shall be maintained in whatever format the trainer elects. However, if the Commission requests a copy of the report, it must be provided in electronic form.

(d) The report must be provided to the new trainer within 48 hours of the transfer of the horse. The trainer or the trainer's designee shall notify the Commission Veterinarian when the records have been provided.

(e) Submission of the report and 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.

(f) Failure of the trainer to provide the reports as required shall result in disciplinary action.

**§ 203.27. Restrictions on wagering.**

A trainer shall only be allowed to wager on the trainer's horse or entries to win or to finish first in combination with other horses.

**§ 203.28. Assistant trainers.**

(a) A trainer may employ an assistant trainer as approved by the Judges. The trainer shall notify the Race Secretary of the use of an assistant trainer. The assistant trainer shall be duly licensed prior to acting in this capacity on behalf of the trainer. Qualifications for obtaining an assistant trainer's license shall be prescribed by the Judges and the Commission and may include those requirements prescribed in this chapter.

(b) An assistant trainer may substitute for and shall assume the same duties, responsibilities and restrictions as imposed on the licensed trainer. In which case, the trainer shall be jointly responsible for the assistant trainer's compliance with the rules governing racing and all the duties and responsibilities set forth in §§ 203.22 and 203.23 (relating to trainer responsibility rule; and duties of trainers).

(c) While currently employed by a trainer, an assistant trainer shall not enter a horse or otherwise compete in the same race as the employer/trainer.

**§ 203.29. Substitute trainer.**

(a) A trainer absent for more than 2 days from the duties and responsibilities as a licensed trainer or on a day in which the trainer has a horse in a race, shall obtain another licensed trainer to substitute.

(b) A substitute trainer shall accept full responsibility for the horses in writing and must be approved by the Judges.

(c) A substitute trainer and the absent trainer shall be jointly responsible as absolute insurers of the condition of their horses entered in an official workout or race under § 203.22 (relating to trainer responsibility rule) of these regulations.

**§ 203.30. Owners authorized agents.**

(a) A person undertaking or purporting to act as an authorized agent of an owner shall apply and secure a license from the Commission prior to this representation. An application for an authorized agent license shall be filed for each owner represented.

(b) A written instrument signed by the owner shall accompany the application and shall clearly set forth the delegated powers of the authorized agent. The owner's signature on the written instrument shall be acknowledged before a notary public.

(c) If the written instrument is a power of attorney it shall be filed with the Commission and attached to the regular application form.

(d) Any changes shall be made in writing and filed as set forth previously.

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

**§ 203.31. Powers and duties of an authorized agent.**

(a) A licensed authorized agent may perform on behalf of the licensed owner-principal all acts relating to racing, as specified in the agency appointment, that could be performed by the principal if the principal were present.

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

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

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

**§ 203.32. Eligibility for groom's license.**

(a) An applicant for a license as a groom must satisfy the Commission that the application possesses the necessary qualifications, both mental and physical, to perform the duties required. Elements to be considered, among others, shall be character, reputation, temperament, experience, knowledge of the rules of racing and of the duties of a groom.

(b) In addition to the requirements set forth in Chapter 185 (relating to occupational licenses—temporary regulations) an applicant shall furnish a complete, accurate and truthful application.

**DRIVERS**

**§ 203.51. Application and qualifications for driver's license.**

(a) In addition to the licensing requirements set forth in Chapter 185 (relating to occupational licenses—temporary regulations), all license requirements for drivers will be in accordance with the USTA Rule 17, except a restricted license as provided for in the USTA Rule A-1, section 3.

(1) The Commission shall deem a driver as qualified to compete if he has obtained a USTA license, either Provisional (P), Restricted (V) or Full Drivers (A). In cases where drivers are Provisional (P), it shall be so noted on the program. In addition to any other requirements mentioned herein the applicant shall:

(i) Furnish a complete application form.

(ii) Produce a driver's license for the current year issued by the USTA.



(2) All penalties imposed on any driver will be recorded on the reverse side of their USTA driver's license by the Presiding Judge.

(3) In the event any person is involved in an accident on the track, the Commission may order the person to submit to a physical examination and this examination must be completed within 30 days from the request or their license may be suspended until compliance therewith.

(4) This license shall be presented to the clerk of course before driving.

**§ 203.52. Racing colors.**

(a) No driver or trainer shall be permitted to drive in any race or other public performance unless wearing the driver's own registered colors or the owner's registered colors.

(b) Drivers must wear distinguishing colors. No driver shall be permitted to start in a race or other public performance unless, in the opinion of the Judges, the driver is properly dressed, including a clean driving outfit. All drivers in a race must wear white driving pants.

(c) During inclement weather conditions, drivers must wear rain suits in either of their colors or made of a transparent material through which their colors can be distinguished.

**SUBSTANCE ABUSE AND ADDICTION**

**§ 203.71. Use of controlled substances.**

(a) No driver, trainer, groom or official may use a controlled substance as defined in The Controlled Substance, Drug, Device and Cosmetic Act (35 P.S. §§ 780-101—780-144) or a prescription drug unless the substance was obtained under a valid prescription or order from a licensed physician while acting in the course of professional practice. The driver, trainer, groom or official is responsible for giving notice to the Presiding Judge on a form provided by the Commission that the driver, trainer, groom or official is using a controlled substance or prescription drug under a valid prescription from a licensed physician.

(b) To maintain the health, safety and welfare of all racing participants, no driver, trainer, groom or official using a controlled substance or prescription drug under a valid prescription or order will be permitted to participate in racing activities unless the physician has certified that use of the controlled substance or prescription drug will not adversely affect the driver's or official's ability to properly and safely carry out his responsibilities.

**§ 203.72. Urine or other drug screening tests.**

A driver, trainer, groom or official for a race may be subjected to a urine test, a swab test or any other noninvasive drug screening tests or methods for the detection of controlled substances or prescription drugs. The testing may be conducted and administered at any time, including on racing days on the track premises and in a manner prescribed by the Commission. An individual subject to this requirement who refuses to submit to the test if requested to do so by a representative of the Commission is subject to a fine of \$500 and an immediate 10-day suspension to be imposed by the Judges.

**§ 203.73. Testing.**

A driver, trainer, groom or official who is selected to submit to a urine test, swab test or other noninvasive drug screening tests or methods shall provide a sample to

a representative of the Commission and shall fully cooperate with the following procedures:

(1) The taking of the sample shall occur in the presence of a Commission representative of the same sex as the tested individual.

(2) The sample shall be sealed and tagged immediately using a form provided by the Commission. Evidence of the sealing shall be indicated by the signatures of the tested individual and the representative of the Commission.

(3) The portion of the form provided to the laboratory for analysis may not identify the tested individual by name.

(4) The sample will be initially tested utilizing a drug detection device approved by the Commission and used at a laboratory approved by the Department of Health under 28 Pa. Code § 5.50 (relating to approval to provide special analytical services) to conduct urine content drug screening tests.

**§ 203.74. Test results.**

(a) *Action upon initial positive test result.* A driver, trainer, groom or official who has initially tested positive for a controlled substance or prescription drug as part of a test administered using a portable drug detection device may be prohibited from participating in racing programs by the Presiding Judge until, in the judgment of the Presiding Judge, the tested individual is capable of safely participating in racing activities.

(b) *Action upon confirmed positive test result.* Initial positive test results shall be analyzed by a clinical laboratory which is approved by the Department of Health under 28 Pa. Code § 5.50 (relating to approval to provide special analytical services) to provide confirmatory urine content drug testing specialized laboratory services. If the clinical laboratory analysis confirms an initial positive test for a controlled substance or prescription drug, other than a controlled substance or prescription drug used under a valid prescription, the Bureau Director will:

(1) For the first violation, issue a written reprimand and warning and notify the tested individual that the tested individual will be subject to mandatory drug testing for a period of time as determined by the Bureau Director and that further violations shall result in the sanctions of paragraphs (2) and (3).

(2) For a second violation, require the tested individual to enroll in a treatment program approved by the Commission upon reasonable terms and conditions as required and at the cost of the tested individual. The tested individual shall be permitted to participate in racing activities prior to completion of the treatment program only if continued participation would not be detrimental to the best interests of racing or would not be unsafe, as determined by the Bureau Director or other Commission designated person. The tested individual shall provide the Commission written notice of his enrollment, weekly status reports and written notice of his successful completion of, and discharge from, the program. If a tested individual fails to comply with this paragraph, his license will be suspended until compliance is obtained. Upon successful completion of a treatment program, the tested individual will be permitted to participate in racing activities if permission had been denied by the Bureau Director.

(3) For a third or subsequent violation, inform the tested individual that the tested individual may be liable

under the penalty provisions of the act or the individual may be required to enroll in a treatment program instead of the penalties, at the discretion of the Commission.

(c) *Review.* Actions taken by a Presiding Judge or the Bureau Director under this section are subject to review by the Commission if review is requested in writing within 10 days of receipt of written notice of the actions. The Commission may affirm, modify or reverse action taken by a Presiding Judge, or the Bureau Director if the action is consistent with the best interests of racing.

(d) *Positive test.* For purposes of this section, a positive test is a test result indicating the presence of any amount of a controlled substance or prescription drug.

**§ 203.75. Confidentiality.**

(a) *Permitted disclosures.* Information received in the process of obtaining a urine sample, including, but not limited to, medical information, the results of a urine test and reports filed as a result of attending a treatment program, will be treated as confidential, except for use with respect to a ruling issued under this chapter or an administrative or judicial hearing with regard to the ruling. Access to the information received or reports of positive results or reports from a treatment program will be limited to the Commissioners, the Bureau Director or a designee, counsel for the Commission and the tested individual. Nothing in this section prohibits the disclosure of a fine, suspension or revocation imposed on a licensee under this chapter.

(b) *Storage and retention of information.* Information received and reports prepared under this chapter will be stored in a locked, secure area in the office of the Bureau Director for 1 year, after which time they will be destroyed. However, the Commission may maintain the information received and reports on individuals who have violated this chapter for the purpose of recording the number of violations and the results of treatment, and for use if future violations occur.

**SAFETY EQUIPMENT**

**§ 203.91. Safety helmets.**

(a) A protective helmet meeting the 1984 Standard for Protective Headgear (Snell Memorial Foundation), Laboratory Procedure for Motorcycle Helmet Testing (Federal Motor Vehicle Safety Standard No. 218, United States Department of Transportation) or Specification for Headgear Used in Horse Sports and Horse Back Riding (ASTM Standard F085.53, Draft # 4, 1986) standards for protective harness racing headwear, securely fastened under the chin, must be worn at all times on association grounds when:

(1) Racing, parading or warming up a horse prior to racing; or

(2) Jogging, training or exercising a horse at any time.

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

(c) The Commission, by written notice to the regulated community and by Order published in the *Pennsylvania Bulletin*, may adopt the minimum standards in sections (a) and (b) for helmets as may be amended from time to time.

(d) Failure of persons to adhere to the previous safety helmet provisions may subject the person to the following penalties:

- (1) First offense—a written warning;
- (2) Second offense—\$50 fine;
- (3) Third or subsequent offense—\$250 fine or suspension, or both, at the discretion of the Judges.

**FARRIERS**

**§ 203.101. Eligibility for Farrier's license.**

(a) The issuance of a Farrier's license shall be dependent upon the applicant satisfying the requirements set forth below. An applicant shall:

(1) Be at least 18 years of age; and

(2) Be qualified, by reason of experience, background and knowledge of horseshoeing, as determined by the Commission or its appointed testing organization,

(b) As evidence of qualifications and capabilities, applicants not previously licensed in any jurisdiction shall be required to pass one or more of the following:

(1) A written examination;

(2) An interview or oral examination; or

(3) A demonstration of practical skills in horseshoeing.

(c) The Farriers' license shall be issued for a term of 3 years.

(d) If a Farrier's license is terminated by action of the Commission or by failure to renew the license for a period of 7 years, the applicant must comply with the requirements of subsection (b).

**§ 203.102. Reciprocity with other states.**

A Farrier's license, duly issued by and in good standing from another jurisdiction, shall be reciprocally accepted by the Commission or its testing organization as evidence of the Farrier's experience and qualifications for licensure in this Commonwealth. If requested by the Commission, the Farrier shall provide any necessary documentation from the licensing jurisdiction.

**PRACTICING VETERINARIANS**

**§ 203.111. Eligibility for Commission license.**

An applicant for a license as a practicing veterinarian on the grounds of a licensed racing facility shall be qualified and licensed to practice veterinary medicine in this Commonwealth. An application for a practicing veterinarian license from the Commission must be accompanied by a copy of the applicant's current license to practice veterinary medicine and be otherwise qualified to be issued a license to participate in racing.

**§ 203.112. Duties and responsibilities.**

(a) All practicing veterinarians licensed by the Commission and authorized to access secure areas of the licensed racing facility and to participate in racing activities shall ensure the health and welfare of racehorses and shall safeguard the interests of the public and the participants in racing.

(b) It shall be the duty of every practicing veterinarian to adhere to the highest ethical and professional standards of veterinary practice. Any deviation from those standards shall be considered a violation of the rules of racing and may subject the practicing veterinarian to discipline by the Commission including fines, suspensions or revocation.

(c) All practicing veterinarians administering drugs, medications or other substances shall be responsible for ensuring that the drugs, medications or other substances and the veterinary treatment of horses are administered

in accordance with rules in Subpart F (relating to foreign substances, medications, drugs and equine veterinary practices).

(1) All practicing veterinarians shall promptly notify the Commission Veterinarian of any reportable disease and any unusual incidence of a communicable illness in any horse in his/her charge.

**§ 203.113. Restrictions on wagering.**

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

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**§ 205.1. General provisions.**

(a) The Commission shall annually approve each licensed racing entity employee whose duties include the enforcement of pari-mutuel racing and wagering activities which directly or indirectly affect the racing product. Compensation for a racetrack racing official shall be paid by the licensed racing entity.

(b) Racetrack racing officials shall enforce this chapter at all times and shall render regular written reports of the activities and conduct of the race meetings to the Commission, if requested by the Board of Judges or the Commission.

(c) The Commission shall employ individuals who shall be designated as Commission racing officials and whose duties shall include the oversight and enforcement of the act, regulations and Commission policies related to all racing activities, the conduct of live, simulcasted, electronic and pari-mutuel wagering activities and all licensees engaged in those racing activities.

(d) The purpose of this chapter is to define the duties and responsibilities of racing officials and the requirements, procedures and rules and conduct of live harness racing.

**§ 205.2. Required presence of officials in race.**

(a) In every race a Presiding Judge and two Associate Judges shall be present in the Judge's stand and all other race officials as defined in § 201.1 (relating to definitions), with the exception of the track veterinarian and the horse identifier.

(b) All racing officials shall be approved and licensed by the Commission. No racing official, with the exception of a timer, will be considered for approval unless that official has attended a USTA Officials' School or another school designated by the Commission and has satisfactorily passed a written or oral examination, or both, at the conclusion of this school.

**§ 205.3. Conflict of official's position.**

(a) A racing official may not participate in the supervision, regulation or review of a race in which either the racing official or a member of the racing official's immediate family, or a business partner, agent, associate, employee or joint-venturer has participated.

(b) No racing official, acting as a presiding, associate, starting, patrol or paddock Judge shall serve as a race secretary or a clerk of the course at the meeting. No racing official who is under suspension, an owner or otherwise interested in the ownership of any horse participating at the meeting or race, shall be qualified to act as an official.

**§ 205.4. Removal of official.**

(a) Any racing official may be fined, suspended or the official's license may be denied or revoked at any time for incompetency, failure to follow or enforce the provisions of this part, or any conduct detrimental to the sport.

(b) In the event of the disqualification of a racing official for any reason, the Board of Judges shall be notified immediately. The Board of Judges shall thereafter appoint a substitute.

**§ 205.5. Wagering forbidden.**

A racing official may not wager, directly or indirectly, or otherwise have a form of interest in a wager of money or other thing of value on the results of a race at the meeting at which the racing official is employed. This prohibition shall include all forms of electronic or account wagering through any personal device.

**§ 205.6. Admission to Judges' stand.**

Only the Judges, the clerk of course, timers, official announcer, racing officials or representatives of the Commission shall be allowed in the Judges' stand during a race. No exceptions shall be permitted.

**§ 205.7. Decorum of officials.**

Racing officials shall at all times during the performance of their duties refrain from using inappropriate language or from conducting themselves other than in a judicious manner. Any conduct on their part which could or does tend to detrimentally or negatively reflect upon the sport is prohibited.

**§ 205.8. Reporting of violations.**

All racing officials and their assistants shall immediately report to the Judges every observed or reported violation of these rules and of the laws of the Commonwealth governing racing.

**§ 205.9. Observations and notifications.**

Prior to a race, a racing official shall immediately report to the Judges any apparent issues with a horse based on the condition which may significantly affect the running of the race. Upon notification to the Judges, the Judges may either conduct an immediate investigation or forward the matter to Commission investigators.

**RACING OFFICIALS**

**§ 205.21. Racing officials.**

Officials at a race meeting may include the following:

- (1) Board of Judges;
- (2) Race secretary;
- (3) Paddock Judge;
- (4) Horse identifier;
- (5) Clerk of course/charter;
- (6) Starter;
- (7) Timer/clocker;
- (8) Patrol Judge;
- (9) Program director;
- (10) Commission Veterinarian;
- (11) Racetrack veterinarian.

**§ 205.22. Eligibility.**

To qualify as a racing official, the applicant shall, at a minimum be:

- (1) Of good character and reputation;
- (2) Experienced in harness racing;
- (3) Familiar with the duties of the position and with the Commission's rules of harness racing;

(4) Mentally and physically able to perform the duties of the job; and

(5) In good standing and not under suspension by the USTA or ineligible in any racing jurisdiction.

**§ 205.23. Approval and licensing.**

The Commission may, on an annual basis or when otherwise needed, determine the eligibility of a racetrack or Commission racing official and, in its sole discretion, may approve or disapprove any official for licensing.

**§ 205.24. Prohibited practices.**

While serving in an official capacity, racing officials and their assistants shall not:

- (1) Participate in the sale or purchase, or ownership of any horse actively racing at the meeting;
- (2) Sell or solicit horse insurance on any horse racing at the meeting;
- (3) Be licensed in any other capacity without permission of the Commission, or in case of an emergency, the permission of the Judges;
- (4) Wager utilizing any device on the outcome of a race under the jurisdiction of the Commission while performing their official duties;
- (5) Consume or be under the influence of alcohol or any prohibited substances while performing official duties at the meeting.

(6) Solicit or accept, either directly or indirectly, any gratuity, reward or favor in connection with racing at the meeting at which the racing official is employed.

**§ 205.25. Appointment.**

(a) A person shall not be appointed to more than one racing official position at a meeting unless specifically approved by the Commission.

**§ 205.26. Appointment of substitute officials.**

The licensed racing entity shall immediately notify the Judges where an emergency vacancy exists among racetrack racing officials and shall fill the vacancy immediately. This appointment shall be reported to the Commission and shall be effective until the vacancy is filled in accordance with these rules.

**BOARD OF JUDGES**

**§ 205.31. Accreditation of Judges.**

(a) To qualify for appointment as a Judge with the Board of Judges, the applicant must meet the education and examination requirements necessary to be accredited by the USTA Official's School, the Association of Racing Commissioners International Racing Officials Accreditation Program or a similar accreditation program approved by the Commission.

(b) In addition to subsection (a), the applicant must also meet the following racing experience requirements:

- (1) Five years or more of experience as a licensee of a racing commission or other regulatory racing authority of the United States or Canada;
- (2) Certified as a racing official in one or more of the following categories: patrol Judge, placing Judge, paddock Judge, clerk of course, horse identifier, racing secretary or assistant racing secretary and Starter; and
- (3) Be in good standing with all harness racing jurisdictions and with the USTA.

**§ 205.32. Powers of the Judges.**

(a) *General powers.* In matters pertaining to racing, the orders of the Judges shall supersede the orders of the officers and directors of the association. The Judges shall have the authority to regulate and supervise the conduct of the race meeting and licensed personnel, racing officials, owners, trainers, drivers, grooms and all other persons participating in pari-mutuel racing activities at the race meeting, unless the power and the duty is exclusively vested in the Commission.

(b) The authority of the Board of Judges shall begin at least 10 days prior to the beginning of the race meeting and shall terminate with the completion of their business pertaining to the meeting. This period may be modified or altered as deemed necessary by the Commission. If a dispute is unresolved at the time, it may be heard later or disposed of by the Judges or referred to the Commission. This section does not limit the power of the Judges to impose sanctions which continue beyond the end of the race meeting.

(c) If there is a succeeding meeting approved to begin at the same racetrack, the power of the Judges at the meetings is deemed to be continuing and sustaining.

(d) *Specific powers.* The Presiding Judge and Associate Judges shall have the authority to:

(1) Impose all necessary fines and penalties in accordance with the act and as specifically set forth in the Commission's regulations.

(2) Determine all questions of fact relating to the race and resolve conflicts and disputes related to racing and discipline violators in accordance with these regulations.

(3) Decide any disputes between parties to the race or any contingent racing matter not specifically covered by the rules, but which, in the Judges' opinion, may negatively impact the public interest or the public's perception of racing.

(4) Declare pools and bets "Off" in case of fraud, or to declare any horse a nonstarter and to direct the refund of all wagers made thereon. All pools and bets shall follow the decisions of the Judges. These decisions in respect to pools and bets shall be made before or after the conclusion of the race upon the observations of the Judges and upon the facts as an immediate investigation will develop. A reversal or change of decision after the official placing at the conclusion of a heat or dash shall not affect the distribution of the betting pools made upon the official placing.

(5) Declare a dash or heat of a race no contest in the event that a track is thrown into darkness during the progress of a race by failure of electricity.

(6) Postpone or cancel races in the event of unfavorable weather conditions or for any other reason related to the health and safety of the horse and those participating in the race.

(7) Conduct administrative hearings in accordance with Chapter 179, Subchapter B (relating to Judges and Stewards hearings) and compel the attendance of witnesses, the submission of documents or potential evidence related to any investigation or hearing and may administer oaths and examine witnesses.

(8) Consider complaints of foul from the patrol Judges or drivers in the race.

(9) To have reasonable control over and access to restricted and unrestricted areas including stands, paddock, stables, barns and other areas of the racetrack enclosure.

(10) To direct the examination a horse stabled on the racetrack grounds, or in a stabling area approved by the licensed racing entity.

(11) Inspect from time to time license documents, registration papers and other documents related to racing.

(12) Consult with the Commission Veterinarian to determine the nature and seriousness of a laboratory finding or an alleged medication violation.

**§ 205.33. Disciplinary action.**

(a) The Judges shall take notice of alleged misconduct or rule violations and may initiate investigations into the matters through the Commission's investigative staff or matters may be referred to them for hearing. The Judges shall have the express authority to charge any licensee for a violation of these rules, to conduct hearings and to impose disciplinary action in accordance with these rules.

(b) The Judges may impose, but are not limited to, any of the following penalties on a licensee for an attempted violation or violation of these rules:

(1) Issue a reprimand;

(2) Impose a fine not to exceed the statutory amount set for in the act;

(3) Require forfeiture or redistribution of purse or award;

(4) Place a licensee on probation or a conditional license;

(5) Suspend a license or racing privileges;

(6) Revoke a license;

(7) Order that a person be ineligible for licensing; or

(8) Impose any other penalty as deemed necessary and appropriate for the level of violation.

(c) The Judges may suspend a person or disqualify a horse for fixed periods of time or under other conditions they may deem appropriate or as may be specified by this chapter. If a person is indefinitely suspended or is ordered suspended for more than the balance of a meeting, the matters shall promptly be referred to the Commission for final disposition.

(d) The Judges, on an emergency basis, shall have the power to exclude or eject from the racetrack premises and enclosures of the licensed racing entity any person who:

(1) Is under an order of suspension or revocation or has been denied a license or ruled off by a racing commission or Board of Judges.

(2) Is known to be an objectionable or undesirable person or whose presence on the racetrack enclosure is deemed to be inconsistent with the best interests of racing.

(3) Whose conduct is deemed an improper or detrimental to racing.

(e) The Judges' ruling shall not prevent the Commission from imposing a more severe penalty.

(f) The Judges may refer any matter to the Commission and may include recommendations for disposition. The absence of a Judges' referral shall not preclude the Commission from taking action in any matter on its own.

(g) All fines imposed by the Judges shall be paid to the Commission within 10 days after the ruling is issued, unless otherwise directed by the Judges.

(h) In addition to any penalties imposed upon any owner, trainer, veterinarian or other licensee as a result



of a medication or drug positive, after notice and an appropriate hearing, the horse which tested positive for the prohibited substance, shall be placed on the Judge's list and shall be ineligible to participate in racing for the following period of time:

(1) Class 1 or Class 2 drugs (as set forth in the Association of Racing Commissioners International Uniform Classification guidelines) shall be ineligible to race for a period of 90 days from the date of the Judges' ruling, unless the matter has been appealed to the Commission.

(2) Class 3 drugs or high blood gas (TCO<sub>2</sub>) readings shall be ineligible for a period of 30 days from the date of the Judges' ruling unless the matter has been appealed to the Commission.

**§ 205.34. Judges' presence in the stand.**

(a) Three Judges shall be present and on duty in the Judges' stand during the running of each race. During the race times, the Judges shall remain in the stand, in the paddock or otherwise readily available to the participants at the meet.

(b) At least one of the Judges shall be on duty within call of the racing secretary from the time of the opening of overnight entries each morning until after the time allowed for filing of protests or objections to entries or assignment of post positions.

(c) Should any Judge be absent at race time, and no approved alternate Judge be available, the remaining Judges may appoint a qualified substitute for the absent Judge. If a substitute Steward is appointed, the Judges shall notify the Bureau Director and the racing secretary.

**§ 205.35. Duties of Judges.**

(a) The Judges shall investigate promptly and render a decision in every protest, objection and complaint made to them. They shall maintain a record of all protests, objections and complaints. The Judges shall file daily with the Commission a copy of each protest, objection or complaint and any related ruling.

(b) The Judges shall prepare a daily report, on a form approved by the Commission, detailing their actions and observations made during each day's race program. The report shall include the information such as the name of the racetrack, the date, the weather and track-conditions, claims, inquiries, and objections and any unusual circumstances or conditions. The report shall be signed by each Judge and be filed with the Commission not later than 24 hours after the end of each race day.

(c) The Presiding Judge shall maintain a detailed report of the Judges' official activities. The log shall describe all questions, disputes, protests, complaints, or objections brought to the attention of the Judges and all interviews, investigations and rulings made by the Judges. The log shall be available at all times for inspection by the Commission or its designee.

(d) Not later than 7 days after the last day of a race meeting, the Presiding Judge shall submit to the Commission a written report regarding the race meeting. The report shall include:

(1) The Judges' observations and comments regarding the conduct of the race meeting and the overall conditions of the association grounds during the race meeting; and

(2) Any recommendations for improvement by the licensed racing entity or action by the Commission.

(e) Order an investigation regarding any act of cruelty, seen by them or reported to them, toward a race horse

during a meeting. If, after a hearing, the Judges determine that an act has been committed, the Judges shall impose the appropriate penalty and shall refer the matter to the Commission for further action, including the referral of the matter to the appropriate law enforcement agency.

(f) Exclude from a race any horse that in the opinion of the Judges is improperly equipped, dangerous or unfit to race. A horse is unfit to race if it is sick, has impaired vision in both eyes, is noticeably weak or lame. The horse shall be placed on the Judges' List as provided in § 205.36 (relating to Judges' List).

**§ 205.36. Judges' List.**

(a) The Judges shall maintain a Judges' List of the horses which are ineligible to be declared or entered in a race because of poor or inconsistent performance or behavior on the racetrack that endangers the health or safety of other participants in racing.

(b) A horse that is unfit to race because it is dangerous, unmanageable or unable to show a performance to qualify for races at the race meeting, or otherwise unfit to race at the race meeting may be placed on the Judges' list by the Presiding Judge and declarations or entries, or both, on the horse shall be refused. The owner or trainer shall be notified of the action and the reason shall be clearly stated. The Judges shall post and maintain a current Judges' List in the racing office. When any horse is placed on the Judges' List, the clerk of course shall make an entry on the eligibility certificate of the horse, showing the date the horse was put on the Judges' List, the reason and the date of removal, if the horse has been removed.

(c) Any horse put on the Judges' List as unmanageable or dangerous must qualify in a satisfactory manner for the Judges at least two times.

(d) The Judges may put a horse on the Judges' List for performance when the horse shows a reversal of form or does not race near its own capabilities. The horse must qualify in a time comparable to its known capabilities from one to three times, at the discretion of the Judges, before being declared.

(e) The Judge may place a horse on the Judges' List when there exists a question as to the exact identification or ownership of said horse.

(f) A horse which has been placed on the Judges' List because of questions as to the exact identification or ownership of said horse, may be removed from the Judges' List when, in the opinion of the Judges, proof of identification or ownership has been reasonably established.

(g) A horse placed on the Judges' List can only be removed from the Judges' List by the Judges.

**§ 205.37. Procedure of the Judges.**

It shall be the procedure of the Judges to:

(1) Be in the stand 15 minutes before the first race and remain in the stand for 10 minutes after the last race and at all times when the horses are upon the track.

(2) Observe the preliminary warming up of the horses and scoring, noting the behavior of horses, lameness, equipment, conduct of drivers, changes in odds and any unusual incident pertaining to horses or drivers participating in races.

(3) Give notice at least 10 minutes before a race or heat. Any driver failing to obey this summons may be punished and the horse may be ruled out by the Judges and considered drawn.

(4) Designate one of the Judges to lock the pari-mutuel machines immediately upon the horses reaching the official starting point. The Presiding Judge shall designate the post time for each race and the horses will be called at the time as to preclude excessive delay after the completion of scoring.

(5) Be in communication with the patrol Judges from the time the Starter picks up the horses until the finish of the race. Any violation or near violation of the rules shall be reported by the patrol Judge or Starter witnessing the incident and written record made of the incident. At least one Judge will observe the drivers throughout the stretch specifically noting changing course, interference, improper use of whips, breaks and failure to contest the race to the finish.

(6) Post the "objection" sign, or "inquiry" sign, on the odds board in the case of a complaint or possible rule violation, and immediately notify the announcer of the objection or inquiry and the horses involved. As soon as the Judges have made a decision, the objection sign shall be removed, the correct placing displayed and the "official" sign flashed. In all instances the Judges shall post the order of finish and the official sign as soon as they have made their decision.

(7) Display the photo sign if the order of finish among the contending horses is less than half-length or a contending horse is on a break at the finish.

**RACE SECRETARY**

**§ 205.51. General authority of the race secretary.**

The race secretary or the assistant race secretary as an employee of the licensed racing entity shall be responsible for setting the conditions for each race of the race meeting, supervise the nominations of entries and determining the amounts of purses and to whom the purses are due. The race secretary shall verify the eligibility of all horses entered for each race and shall certify eligibility to the Judges.

**§ 205.52. Claiming authorizations.**

The race secretary is responsible for maintaining the claiming authorizations of all declared horses during the race meeting.

**§ 205.53. List of nerved horses.**

The race secretary shall maintain a list of nerved horses which are on the racetrack grounds and shall make the list available for inspection by the Commission or its designee or by written request from other licensees participating in the race meeting.

**§ 205.54. Allocation of stalls.**

The race secretary shall have the sole authority to assign stall applicants stabling as is deemed proper and maintain a record of arrivals and departures of all horses entering into and stabled on the racetrack grounds. No appeal to the Commission shall be available from a denial of stalls.

**§ 205.55. Conditions.**

(a) The race secretary shall establish the conditions and eligibility for entering races and cause them to be published to owners, trainers, the Judge and the Commission and be posted in the racing secretary's office. The race secretary shall remain responsible for any errors occurring regarding a horse's eligibility and along with the licensed racing entity shall remediate the error if possible.

(b) The race secretary shall prescribe the standards for overnight events and to prepare and publish condition sheets or condition books in accordance with these rules.

**§ 205.56. Listing of horses.**

The race secretary shall:

(1) Examine all entry forms and declarations to verify information as set forth therein;

(2) Select the horses to start and the also eligible horses from the declarations in accordance with these rules; and

(3) Provide the listing of horses in the daily program.

**§ 205.57. Race information.**

The race secretary shall be familiar with the age, class and competitive ability of all horses racing at the race meeting.

**§ 205.58. Classifications.**

The race secretary shall classify horses in accordance with these rules and list horses in the categories in which they qualify.

**§ 205.59. Daily racing program.**

The race secretary or the designated program director shall publish the official daily racing program, ensuring the accuracy therein of the following information:

(1) Sequence of races to be run and post time for the first race;

(2) Purse, conditions and distance for each race, and current track record for distance;

(3) The name of licensed owners of each horse, indicated as leased, if applicable, and description of racing colors to be carried;

(4) The name of the trainer and the name of the drive named for each horse;

(5) The post position and saddle cloth number or designation for each horse if there is a variance with the saddle cloth designation;

(6) Identification of each horse by name, color, sex, age, sire and dam;

(7) Other information as may be requested by the licensed racing entity or the Commission.

**§ 205.60. Posting of entries.**

Upon completion of the draw each day, the race secretary shall post a list of entries in a conspicuous location in the racing office and make the list available to the media. No appeal shall be heard by the Commission from the denial or posting of entries.

**§ 205.61. Nominations and declarations.**

The race secretary shall examine nominations and declarations and early closing events, late closing events and stakes events to verify the eligibility of all declarations and nominations and compile lists thereof for publication.

**§ 205.62. Stakes and added money records.**

The race secretary shall be caretaker of the permanent records of all stakes and shall verify that all added moneys due are paid prior to declaration for races conducted at the race meeting.

**§ 205.63. Winnings.**

For the purpose of establishing conditions, winnings shall be considered to include all moneys and prizes won

up to the time of the start of a race. Winnings during the year shall be calculated by the racing secretary from the preceding January 1.

#### PADDOCK JUDGE

##### § 205.71. Duties of paddock Judge.

At the direction of the Presiding Judge, the paddock Judge shall at all times be in charge of the paddock and the activities in the paddock area as outlined in the Commission regulations. The paddock Judge shall:

- (1) Ensure that the horses are on the track for post parades in accordance with the schedule issued by the Presiding Judge;
- (2) Inspect horses for changes in equipment, broken or faulty equipment, head numbers and saddle pads;
- (3) Supervise paddock gate operators;
- (4) Check horses and drivers in and out;
- (5) Direct the activities of the paddock horseshoer;
- (6) Immediately notify the Presiding Judge of anything that could in change, delay or otherwise affect the racing program;
- (7) See that only properly authorized persons are permitted in the paddock;
- (8) Supervise the identification of horses in the race;
- (9) Notify the Presiding Judge of any change of racing equipment or horseshoes before the race;
- (10) Inspect and supervise the maintenance of all emergency equipment kept in the paddock;
- (11) Notify Judges of the reason for any horse returning to the paddock after having entered the track for the post parade and before the start of the race;
- (12) Notify Judges of all trainers and grooms who leave the paddock in an emergency;
- (13) Supervise and maintain cleanliness of the paddock;
- (14) Supervise the conduct of all persons in the paddock;
- (15) Immediately report to the Presiding Judge evidence of cruelty to any horse.

#### HORSE IDENTIFIER

##### § 205.91. General authority and duties.

(a) The horse identifier shall be present for each race. The horse identifier shall inspect each horse prior to its departure from the paddock to the post parade to confirm the horse's proper identity by checking the horse's tattoo number, color and markings, and freeze brand if applicable.

(b) The horse identifier shall report to the Judges any horse not properly identified or whose registration certificate is not in conformity with these rules.

#### CLERK OF COURSE/OFFICIAL CHARTER

##### § 205.101. General authority and duties.

(a) The clerk of course/charter shall be under the jurisdiction of the Presiding Judge at all times. The clerk of course/charter be responsible for verifying the eligibility records provided by the USTA and recording therein all the following information:

- (1) Names and addresses of owners, trainers and drivers;
  - (2) The standard symbols for medications, where applicable;
  - (3) Notations of placings, disqualifications and claimed horses;
  - (4) Notations of scratched or barred horses.
- (b) The clerk of course shall also:
- (1) Provide an eligibility record to the horse's owner or the owner's representative when requested.
  - (2) Check eligibility certificates before the race and after the race, enter all information provided thereon, including the position of the horse in the race it was charted.
  - (3) Record all protests, penalties and appeals on forms provided by the Presiding Judge.
  - (4) Assist the Presiding Judge in drawing positions and when called upon, assist in placing horses.
- (c) The official charter is responsible for providing a complete and accurate chart of each race and shall only be done by a licensed clerk of course/charter. At all meetings the charting of races is mandatory and the licensed racing entity shall employ a licensed clerk of course/charter to fulfill the requirements of this section.
- (d) An accurate chart shall include the following:
- (1) Horse's name;
  - (2) Driver's name;
  - (3) Date and place of the race;
  - (4) Track size, if other than a 1/2-mile track;
  - (5) Track condition and temperature;
  - (6) Type of race (trot or pace);
  - (7) Classification of race;
  - (8) Distance;
  - (9) Fractional times of the leading horse, including the race time;
  - (10) Post position, position at the 1/4-mile, the 1/2-mile and the 3/4-mile poles and at the head of the stretch with lengths behind the leader and finish position with lengths behind the winner;
  - (11) Official order of finish;
  - (12) Individual time of each horse;
  - (13) Closing dollar odds (with favorite designated by an asterisk);
  - (14) The standard symbols for breaks, interference breaks, interference, broken equipment, park outs and free legged pacers, where applicable;
  - (15) The standard symbols for medications, where applicable; in claiming races, the price for which the horse is entered to be claimed less allowances for age and sex;
  - (16) Names of the horses placed first, second and third by the Judges; and notations of placings, disqualifications and claimed horses.

#### OFFICIAL STARTER

##### § 205.111. Eligibility as a Starter.

(a) No person shall be licensed as a Starter until the applicant has successfully completed a written examination and satisfied the Commission or the Commission's



designee that the Starter has the necessary qualifications to perform the required duties.

(b) Notwithstanding the requirement in subsection (a), the Commission may grant a limited Starter's license restricted to starting horses in matinee races, time performances or meetings not exceeding 10 days in duration within a calendar year.

**§ 205.112. Duties of the Starter.**

- (a) The Starter shall:
  - (1) Be subject to the supervision of the Presiding Judge;
  - (2) Be present in the starting gate at least 15 minutes before the first race;
  - (3) Have control over the horses from the formation of the post parade until the field is released at the starting point;
  - (4) Notify the Judges of all violations of the rules, giving detailed information thereof, including any assessed penalty;
  - (5) Notify drivers charged with violations of starting rules and grant a hearing before any penalties are assessed;
  - (6) Act as a patrol Judge when requested by the Judges; and
  - (7) Immediately report any false starts, impeded starts, unfair starts or any unauthorized activities to the Presiding Judge.

(b) Submit to a physical or eye examination, or both, when requested by the Commission.

**§ 205.113. Starter's List.**

The official Starter shall school horses as may be necessary and shall prepare a list of horses not qualified to start, which shall be delivered to the Judges and the racing secretary and entered on the Starter's List. The Starter's List shall be posted in the racing secretary's office. No horse on the Starter's List shall be eligible to declare until removed from the Starter's List.

**TIMER/CLOCKER**

**§ 205.121. Duties of timers.**

- (a) The official timer/clocker shall accurately record the time elapsed between the start and finish of each race and shall be in the stand 15 minutes before the first heat or dash is contested.
- (b) The time shall be recorded from the instant that the first horse crosses the starting point until the first horse reaches the finish line and each 1/4 mile shall also be recorded on the leading horse.
- (c) In every race, the time of each heat or dash shall be accurately recorded by two timers or an approved electrical timing device, in which case, there shall be one timer.
- (d) Times of heats shall be recorded in minutes, seconds and fifths of a second.
- (e) Immediately following each heat, the elapsed time of the heat shall be publicly announced or posted on the totalisator board, or both.
- (f) No unofficial time shall be announced, posted or entered into the official record.

**§ 205.122. Error in reported time.**

(a) In circumstances involving an error in timing, no time shall be announced, posted or recorded for that heat.

(b) In any case of alleged error regarding a horse's official time, the time in question shall not be changed to favor the horse or its owner, except upon the sworn statement of the Judges and official timers who officiated in the race.

**§ 205.123. Certificate as to track measurement.**

In order for races to be recognized or published as official or both, at the beginning of each race meeting or at any time requested by the Commission, every licensed racing entity shall file a certificate by a duly licensed civil engineer or similar person that the track has been measured from wire to wire 3 feet out from the pole or inside hub rail and certifying in linear feet the result of that measurement. Each racetrack shall be measured and recertified in the event of any changes or relocation to the physical structure of the hub rail.

**§ 205.124. Time performance.**

A record can be made only in a public race or performance against time. In a performance against time, the provisions of the USTA's Rule 24 shall apply.

**PATROL JUDGE**

**§ 205.131. Powers and duties of patrol Judges.**

The patrol Judge, when utilized, is responsible for observing the race and reporting information concerning the race to the Judges. If the track's video replay system is deemed adequate, use of patrol Judges is optional.

**PROGRAM DIRECTOR**

**§ 205.151. Duties.**

(a) Each licensed racing entity shall designate a program director. In addition to the information set forth in § 205.59 (relating to daily racing program), it shall be the responsibility of the program director to furnish the public complete and accurate past performance information including the following:

- (1) Horse's name and sex;
- (2) Color and age;
- (3) Sire and dam;
- (4) Owner's name;
- (5) Driver's name and colors;
- (6) Trainer's name and stable name.

(b) At extended pari-mutuel meetings, the following additional information shall be furnished:

(1) In claiming races, the price for which the horse is entered to be claimed.

(2) At least the last six performance and accurate chart lines for the horse which shall include the following: Date of race, place, size of the racetrack if other than a 1/2-mile racetrack, symbol for free-legged pacers, racetrack condition, type of race, distance, the fractional times of the leading horse including race time, post position, position at 1/4 with lengths behind the leader, 1/2 with lengths behind the leader, 3/4 with lengths behind the leader, stretch with lengths behind the leader, finish with lengths behind the leader, individual time of the horse, closing dollar odds, name of the driver, names of the horses placed first, second and third by the Judges. The standard symbols for breaks and park-outs shall be used, where applicable.

(3) Indicate drivers racing with a provisional license and trainers with a limited license.

(4) Indicate pacers racing without hobbles and trotters that are racing with hobbles.

(5) Summary of starts in purse races, earnings, and best win time for current and preceding year. A horse's best win time may be earned in either a purse or non-purse race.

(6) The consolidated line shall carry date, place, time, driver, finish, racetrack condition and distance, if race is not at 1 mile.

(7) Wherever a horse races under permissive medication, that fact shall be recorded on the horse's electronic eligibility and thereafter that information shall be included in the performance lines on the printed programs at all extended pari-mutuel meetings, using the standard symbol adopted therefore.

#### COMMISSION VETERINARIAN

##### § 205.171. Qualifications.

(a) The Commission Veterinarian shall:

(1) Be employed by the Department as a Veterinary Medical Field Officer (VMFO), or as a temporary State veterinarian and appointed by the Commission to a racetrack under the jurisdiction of the Commission;

(2) Have graduated from an accredited veterinary school, be duly licensed by the Department of State to practice veterinary medicine within this Commonwealth and be properly licensed by the Commission as a Commission Veterinarian;

(3) Possess the necessary qualifications and experience to objectively and competently provide the regulatory duties described herein;

(4) Refuse employment or payment, directly or indirectly, from any horse owner or trainer of a horse racing or intending to race in this Commonwealth while employed as the Commission Veterinarian;

(5) Refrain from directly treating or prescribing for any horse under the Commission's jurisdiction, except in cases of extreme emergency, accident or injury;

(6) Have no employment history or business relationship prior to employment as the Commission Veterinarian that could constitute a conflict of interest or impede in the performance of official duties.

(b) The Commission shall have an adequate number of Commission Veterinarians, as determined by the Commission, necessary to perform all the duties and responsibilities, as set forth in these regulations. The Commission may designate one of the Commission Veterinarians as the Chief Commission Veterinarian at that racetrack facility.

##### § 205.172. Duties and responsibilities of the Commission Veterinarian.

(a) The Commission's Veterinarian, among other things, shall:

(1) Inform the Judge that a horse has been deemed unsafe to race, or inhumane to allow to race and shall place that horse on the Veterinarian's List;

(2) Conduct pre-race inspections (racing soundness examination) on all potential Starters on race day under the Pre-Race Examination Protocol as established and amended by the Commission. The examinations shall be conducted in or near the stall to which the horse is assigned;

(3) Inspect any horse when there is a question as to the physical condition of the horse regardless of the horse's entry status;

(4) Be present in the paddock and on the racetrack during the post parade;

(5) Recommend to the Judges the scratching of any horse that is, in the opinion of the Commission Veterinarian, injured, ill or otherwise unable to compete due to an apparent medical or health-related condition;

(6) Inspect any horse which appears in physical distress during the race or at the finish of the race and shall make a report of the horse and the suspected cause of the distress to the Judges, if the initial inspection was done by the racetrack veterinarian;

(7) Maintain a continuing health and racing soundness record of each horse so examined;

(8) Be authorized, in an emergency scenario, to humanely destroy any horse deemed to be so seriously injured that it is in the best interests of the horse to so act;

(9) Report to the Commission the names of all horses humanely destroyed or which otherwise expire at the meeting and the reasons therefore;

(10) Maintain the Veterinarian's List of horses ineligible to race;

(11) Supervise and control the test barn and the procedures to be implemented therein;

(12) Supervise the taking of all biological specimens, including but not limited to blood, urine or any other bodily fluid taken from the horse for pre or post-race testing according to procedures approved by the Commission;

(13) Maintain the proper administrative safeguards to protect the chain of custody handling of all laboratory specimens to prevent tampering, confusion or contamination and assure sample integrity;

(14) Have jurisdiction over the practicing licensed veterinarians within the racetrack enclosure for the purpose of these rules;

(15) Cooperate with the racetrack veterinarian, practicing licensed veterinarians and other regulatory agencies to take measures to control communicable or reportable equine diseases, or both.

##### § 205.173. Veterinarian's List.

The Commission Veterinarian shall maintain a list to be known as the Veterinarian's List upon which the name of a horse which is considered unfit, unsound or not ready for racing shall be placed. The Veterinarian's List shall be binding on all licensed racetrack facilities and those participating in racing activities under the jurisdiction of the Commission. A horse placed on the Veterinarian's List shall be refused entry until the horse is shown to be fit, sound or ready to race.

#### RACETRACK VETERINARIAN

##### § 205.191. General authority and duties.

(a) The track veterinarian shall be attendant on the Judges and the race secretary at scratch time and shall examine the horse that they request and make reports to the racing officials as promptly as possible.

(b) The racetrack veterinarian shall be an employee of the licensed racing entity and shall:

(1) Be duly licensed by the Commission and directly responsible to the Commission Veterinarian;

(2) Be a graduate veterinarian and be licensed to practice in this Commonwealth;

(3) Be present at a designated time to inspect a horse when there is a question as to the physical condition of the horse;

(4) Inspect any horse which appears in physical distress during the race or at the finish of the race; and shall report the horse together with a written opinion as to the cause of the distress to the Judges and to the Commission Veterinarian;

(5) Refrain from directly treating or prescribing for any horse scheduled to participate during the racetrack veterinarian's term of appointment at any recognized meeting except in cases of emergency, accident or injury;

(6) Be authorized to humanely destroy any horse deemed to be so seriously injured that it is in the best interests of the horse to so act;

(7) Perform any other veterinarian function deemed necessary and appropriate as directed by the Commission Veterinarian, the Commission or the racetrack's employer;

(8) Refuse employment or payment, directly or indirectly, from any owner or trainer of a horse racing or intending to race in this jurisdiction while employed as the racing veterinarian;

(9) Conduct soundness inspections on horses participating in races at the race meeting.

**HORSE IDENTIFICATION**

**§ 205.201. Registration.**

All matters relating to the registration of Standardbred horses, unless otherwise provided for herein, shall be governed by the Rules of the USTA. Pennsylvania stallions, to be eligible for Pennsylvania Sire Stakes for any given year, shall have on file a Stallion Certificate of Eligibility no later than December 1 of the preceding year with the Commission.

**§ 205.202. Horse identification records.**

(a) No horse may start in any race at an extended pari-mutuel or any other meeting unless it is fully identified. The burden of establishing the identity of a horse rests with the person or persons having charge of the horse at the meeting, and in connection therewith any person found guilty of fraud or attempted fraud or any person who aids in any way in the perpetration of a fraud or any person who participates in any attempt at fraud shall be expelled. Provided further that the provisions of this section shall not be interpreted as relieving the paddock Judge or the identifier, or both, from any responsibilities outlined in Rule 6.17 and 6.18 of the USTA.

(b) Horses must race under the name of the bona fide owner. Horses under lease must race in the name of the lessee and a copy of the lease must be recorded with the USTA and with the Commission. Persons violating this rule may be fined, suspended or both.

**§ 205.203. Check on identity of a horse.**

Where a question of a horse's identity or eligibility arises, a racing official may request verifying information regarding the horse's identity and eligibility from the horse's owner, trainer, driver or other person having control of the horse. If the owner, trainer, driver or other person having control of the horse refuses or fails to

provide the requested information that person may be subject to a penalty imposed by the Judges.

**§ 205.204. False chart lines.**

Any official or person who enters a chart line on an electronic eligibility certificate when the race has not been charted by a licensed charter may be fined, suspended or ejected by the Commission.

**§ 205.205. Tattoo/freeze brand/microchip requirements.**

A horse which has not been tattooed, freeze branded or implanted with a microchip as authorized by the USTA will not be permitted to start at a pari-mutuel meeting unless specific permission of the Presiding Judge is been obtained and arrangements are made to have the horse tattooed or freeze branded or implanted with a microchip.

**ELECTRONIC ELIGIBILITY**

**§ 205.211. Electronic eligibility.**

No horse will be permitted to race at a licensed racetrack facility under the jurisdiction of the Commission unless a current USTA electronic eligibility certificate at the proper gait has been obtained and approved by the Commission.

**§ 205.212. Issuance of electronic eligibility.**

Electronic eligibility shall be issued for the life of the horse.

(a) Each registered owner of a horse must be a member in good standing with the USTA prior to the issuance of an electronic eligibility. If the horse is registered in the ownership of a registered racing, farm, corporation, or stable, all "beneficial owners" of those entities must be members in good standing with the USTA prior to the issuance of an electronic eligibility.

(b) Each application for the issuance of electronic eligibility shall list the names of all owners including beneficial owners of the horse.

(c) The names of all owners, including beneficial owners, shall be listed on the electronic eligibility. The electronic eligibility shall not be issued in the names of more than four persons. In the event five or more names are reported to the USTA, the electronic eligibility shall be issued only in four or fewer including racing, farm, corporate or stable names, which names must be registered in accordance with Rule 8.02 of the USTA.

**§ 205.213. Leased horses.**

Any horse on a racing lease must race in the name of the lessee and must provide evidence to the Commission of the lease as filed with the, USTA.

**§ 205.214. Corrections on electronic eligibility.**

Corrections on an electronic eligibility may be made only by the Commission, the Presiding Judge or a designee of the Commission.

**§ 205.215. Conditioned races.**

For purposes of eligibility, a racing season or racing year shall be the calendar year. Conditions shall not be written in a way that any horse is deprived of an opportunity to race in a normal preference cycle. Where the word "preferred" is used in a condition it shall not supersede date preference.



(1) Conditions shall be limited to the money earnings of the horses in a specified period of time or number of starts.

(2) Primary conditions shall be nonwinners or winners of more than a stated amount of money.

(3) Not more than two also eligible conditions shall be used in writing the condition of any overnight event.

(4) Age and sex allowances shall apply to the primary condition and shall not be considered an also eligible condition.

**§ 205.216. Date eligibility determined.**

Horses must be eligible to the event when entries close. Winnings earned on the closing date of eligibility shall not be considered.

**§ 205.217. Age of horses.**

No horse that is 15 years of age or older is eligible to perform in any race except in matinees, fair races, or races exclusively for amateur drivers as designated by the Commission and no electronic eligibility shall be issued for a horse except for a performance in those races.

**§ 205.218. Prohibitions.**

(a) No electronic eligibility will be issued on any horse under 2 years of age.

(b) No electronic eligibility shall be issued for a horse from which a positive Coggins test has been reported.

(c) No electronic eligibility will be issued on any horse not properly registered with the USTA.

**TYPES OF RACES OFFERED**

**§ 205.221. Standards for overnight events.**

The race secretary should prescribe standards to determine whether a horse is qualified to race in overnight events at a meeting. Where time standards are established at a meeting for both trotters and pacers, trotters shall be given a minimum of 2 seconds allowance in relation to pacers.

**§ 205.222. Types of races to be offered.**

The racing secretary shall exclusively use the following types of races:

- (1) Stakes and futurities.
- (2) Early closing and late closing events.
- (3) *Conditioned races.* These qualifications may be based upon, among other things:
  - (i) Horse's money winnings in a specified number of previous races or during a specified previous time.
  - (ii) A horse's finishing position in a specified number of previous races or during a specified period of time.
  - (iii) Age.
  - (iv) Sex.
  - (v) Number of starts during a specified period of time.
  - (vi) Or any one or more combinations of the qualifications herein listed.
- (4) Claiming races.
- (5) Open races or invitational races.

**§ 205.223. Selection or drawing of horses.**

For all overnight events, Starters and "also eligible" shall be drawn by lot from those properly entered, except that a race secretary must establish a preference system for races as provided for in Rule 14.10 of the USTA.

**§ 205.224. Splitting of conditioned races.**

When it is necessary to fill a card, not more than one conditioned race per day may be divided into not more than two divisions after preference has been applied and the divisions may be selected by the racing secretary. For all other overnight races that are divided, the division must be by lot unless the conditions provide for a division based on performance, earnings or sex.

**§ 205.225. Substitute and divided races.**

Substitute races may be provided for each day's program and shall be so designated. Entries in races not filling shall be posted. A substitute race or an event divided into two races shall be used only if regularly scheduled races fail to fill. If a regular race fills it shall be raced on the day it was offered. Overnight events and substitutes shall not be carried to the next racing day.

**§ 205.226. Heats.**

A heat, if conducted, shall be considered as a separate race for the purposes of conditioned racing.

**§ 205.227. Prohibitions.**

(a) A horse qualifying in a qualifying race for which no purse is offered shall not be deprived by reason of the performance of the right to start in any conditioned race.

(b) No time records or bars shall be used as an element of a horse's eligibility for any event.

(c) The racing secretary may reject the declaration on any horse whose past performance indicates that he would be below the competitive level of other horses declared, provided the rejection does not result in a race being cancelled.

(d) Declarations shall not be accepted for any horse to any race unless the declarer has furnished the race secretary with a negative Coggins test written certificate for that horse, as required by subsection (a).

(e) Performance in a matinee race shall not be considered an official start.

**§ 205.228. Bonus earnings.**

In the case of a bonus, the present value of the bonus shall be credited to the horse as earnings for the race or series of races for which it received the bonus. It shall be the responsibility of the organization offering the bonus to report the present value of the bonus to USTA in a timely manner.

**§ 205.229. Supplemental purse payments.**

Supplemental purse payments made by a licensed racing entity after the end of a meeting will be charged and credited to the winnings of any horse at the end of the racing year in which they are distributed. The distribution shall not affect the current eligibility until officially credited to the horse.

**§ 205.230. Classified races.**

Classified races are permitted only when authorized by the Commission.

**§ 205.231. Exhibition races.**

When non-betting promotional races are conducted by licensed racing entities, these races shall be regarded as exhibitions and the horses' performances in those races shall not be noted on electronic eligibility or otherwise officially credited to either horses or drivers. Any money

awarded or paid on these races shall not be credited to the horses or drivers as official earnings and shall not affect the eligibility of participating horses to any subsequent event.

**CLAIMING RACES**

**§ 205.251. Claiming regulations and procedures.**

(a) A licensed owner, trainer or any other person properly licensed may claim any horse in a claiming race if the owner, trainer or licensee has on credit with the licensed racing entity conducting the race, an amount equal to the specified claiming price, plus the applicable tax and requisite fees for transfer of title. Except that, an unlicensed owner operating under a 30-day affidavit procedure may make a claim as previously set forth.

(b) The licensed racing entity shall provide an automatic time clock which shall be used to stamp the time the claim is filed in the claim box upon the envelope containing the claim.

(c) Claims shall be in writing on forms and in envelopes provided by the licensed racing entity, sealed and deposited in the claim box at least 15 minutes before the time originally scheduled for the race to begin. A person may file only one claim in one race.

(d) The claiming price shall be printed on the program and all claims shall be for the amount so designated. If more than one claim is filed for the same horse, the successful claimant shall be determined by lot by the Presiding Judge.

(e) The licensed racing entity shall provide for an agent who shall, immediately after closing the claim box, deliver it to the Presiding Judge. The licensed racing entity's agent or authorized person shall be prepared to state whether the claimant has the proper amount of money on credit equivalent to the specified claiming price. A racing official may not give information on claims filed until after the race.

(f) If a horse programmed to start in a claiming race is scratched, regardless of location, the horse on its next start within this Commonwealth, notwithstanding the conditions of that race, shall be subject to be claimed at the claiming price to which it was subject in the race from which it was scratched. This provision applies for 30 days immediately following the date of the race from which the horse was scratched. The removal of the horse from this jurisdiction shall toll the 30-day period. The 30-day period shall resume when the horse is returned to this jurisdiction.

(g) A horse claimed shall be delivered immediately by the original owner to the successful claimant upon authorization of the Presiding Judge. The horse's halter shall accompany the horse. Altering or removing the horse's shoes will be considered a violation of this rule. Every horse claimed shall race for the interest and for the account of the owner who declared it in the event. Title to the claimed horse, subject to the conditions and provisions of subsection (h), shall be vested in the successful claimant from the word "go." The successful claimant shall become the owner of the claimed horse, whether it be alive or dead, sound or unsound or injured during the race or after it.

(h) A post-race urine or blood test, or both, shall be taken from each horse claimed out of a claiming race. The claim shall be voidable at the claimant's discretion if the forensic analysis by the Commission's laboratory results in a positive test for a prohibited substance. The claimant shall notify the Presiding Judge in writing within 24

hours of the intention to void the claim and return the claimed horse to the original owner. The claimant shall immediately sign over to the original owner the necessary certificates of ownership of the claimed horse. This subsection does not relieve the original trainer/owner of the responsibility for the condition of the claimed horse during the trainer/owner's control or care or custody of the horse.

(1) Except that, if the claimant elects to race the claimed horse prior to the results of the forensic analysis results, the claim shall not be voidable.

(i) The owner of a horse may not claim it or cause it to be claimed for the owner's account.

(j) Before the claimed horse is delivered, the Presiding Judge may require the successful claimant to execute an affidavit stating that the horse is being claimed for the claimant's account or for the account of a person for whom the claimant is an authorized agent and not for another person.

(k) The Presiding Judge may void a claim if the horse claimed has impaired eyesight in both eyes or is denerved above an ankle, or if a mare is in foal and the Presiding Judge was not notified before declaration.

(l) If a horse is claimed, no right, title or interest therein may be sold or transferred except in a claiming race for 30 days following the date of claiming. The horse may not race at a track other than the track where claimed for 30 days or the balance of the current racing meeting, whichever comes first, unless released by the racing secretary.

(m) The trainer or driver of a horse may not claim that horse.

(n) A person may not offer to enter into an agreement to claim or refrain from claiming or attempt to prevent another person from claiming a horse in a claiming race.

(o) There may not be a change in ownership or trainer once a horse is programmed.

(p) A person may not refuse to deliver a horse legally claimed out of a claiming race.

(q) A person may not enter a horse against which there is a mortgage, bill of sale or lien, unless the written consent of the holder of the claim is filed with the clerk of course of the association conducting the claiming race.

(r) Subject to the conditions of subsection (h), the licensed racing entity shall pay the claiming price to the owner at the time the registration certificate is delivered for presentation to the successful claimant.

(s) The successful claimant of a horse who has requested a Coggins test be administered to the horse may not declare or start the horse in future races pending the receipt of a negative test.

(t) Except as provided in § 205.61 (relating to nominations and declarations), a horse owner is not prohibited from determining the price for which that owner's horse shall be entered.

(u) A claim may not be withdrawn once properly made.

(v) A claiming race may not be offered permitting claims for less than the minimum purse offered at that time during the same racing week.

(w) If the Presiding Judge determines that the declaration or claim of a horse or a claiming race is fraudulent, the Presiding Judge may void the claim. If the Presiding Judge determines that a claim of a horse is fraudulent on

the part of the person making the claim, the Presiding Judge may void the claim and may, at the option of the person declaring it in, return the horse to the person declaring it in.

(x) The current registration certificate of horses entered in claiming races shall be on file with the racing secretary together with a separate claiming authorization form signed by the registered owner and indicating the minimum amount for which the horse may be entered to be claimed. To facilitate transfer of claimed horses, the Presiding Judge may sign the transfer but must then send the registration certificate and claiming authorization to the registrar for transfer.

(y) Whenever possible, claiming races shall be written to separate horses 5 years of age or older from young horses and to separate males from females. If sexes are mixed, mares may be given a price allowance.

**§ 205.252. Equine Infectious Anemia testing.**

(a) If claimant indicates on the claiming form that the claimant desires a blood sample to test for Equine Infectious Anemia EIA, a licensed veterinarian shall immediately after the race take a blood sample from the claimed horse. The sample shall be properly marked and identified. The sample shall be forwarded within 24 hours to a laboratory approved by the Commission to be tested for EIA (Coggins test).

(b) Pending the receipt of a negative test for EIA, the moneys paid for the claimed horse shall be held by the licensed racing entity. In the event of a positive test for EIA, the ownership of the claimed horse shall revert to the owner from whom the horse was claimed and the claiming moneys shall be returned to the person or persons who claimed the horse.

(c) The cost of the test shall be paid by the claimant, if the test is negative. The original owner of the horse that was claimed shall pay for test, if test is found positive. Final vesting of title to claimed horse shall not be made pending receipt of the results of the test for EIA.

**NOMINATIONS AND ADDED MONEY EVENTS**

**§ 205.271. Making a nomination.**

All nominations must:

- (1) Be made in writing.
- (2) Give name and address of the registered owner and lessee.
- (3) Give name, color, sex, sire and dam of horse.
- (4) Name the event or events in which the horse is to be nominated.
- (5) In the event a mare nominated to a futurity fails to have a live foal, the nominator may substitute a foal if the conditions so provide.

**§ 205.272. Receipt of nomination and sustaining payments.**

(a) All nomination and sustaining payments not actually received at the hour of closing shall be ineligible except those by letter bearing a postmark not later than the following day (omitting Sunday or a legal Federal holiday, or both) to be actually received at the office at or before the hour of closing. The letter shall include the color, sex, name of horse and the class to be entered, and the name and residence of the owner and the party making the nomination or sustaining payment.

(b) Whenever a nomination or sustaining payment in a stake, futurity, early closing race or late closing race

becomes payable on a Sunday or legal holiday that falls on Saturday, this payment is to be due on the following Monday, the envelope must be post marked on or before the following Tuesday.

(c) If a payment falls on a Monday that is a legal holiday, this payment is due on Tuesday and must be post marked on or before the following Wednesday. For purposes of this rule payments made by means of commercial delivery services shall be treated the same as those made by letters bearing a postmark.

**§ 205.273. Postage mark.**

Where a nomination is received by letter bearing the postage meter date without any postmark placed thereon by the post office, this postage meter date shall be considered to be a postmark for the purposes of this rule, if the letter is actually received within 7 days following the closing date of the event. Receipt a nomination by letter after this time shall not be a valid nomination or payment to any event. The metered date must conform to the postmark date as previously set forth to be valid.

**§ 205.274. Failure to make payment.**

Failure to make any payment required by the conditions constitutes an automatic withdrawal from the event.

**§ 205.275. Event sponsor membership.**

All stake, futurity, early closing and late closing event sponsors or presenters must be members of the USTA.

**§ 205.276. Event sponsor requirements.**

Event sponsors shall:

(a) If possible, advertise the week and place the stake or futurity will be raced before taking nominations. Otherwise announcement of the week and place shall be made as soon as the stake or futurity is sold or awarded. No change in date, program, events or conditions can be made after the nominations have been taken without the consent of the racing authority having jurisdiction over the race. Before taking any sustaining payments during the year the race is to be contested, the date and place of the race shall be stated.

(b) Set the nominating date and the dates for all sustaining payments except the starting fee on the 15th day of the month in accordance with Rule 12.07 of the USTA.

(c) Send a complete list of nominations mailed to each nominator or electronically posted within 20 days after the closing date and mailed to the USTA and to each nominator.

(d) Mail or post a list of nominations within 60 days after the date of closing to the USTA.

(e) Notify all nominators and the USTA within 20 days if the stake or futurity does not fill.

(f) Mail or post within 45 days after the closing date a complete list of all horses nominated and shall mail or post within 45 days following all sustaining payment closing dates a complete list of all horses remaining eligible to the USTA. In addition, a list of all eligible horses shall be mailed upon request to all owners or agents of all eligible horses.

**§ 205.277. Date of nomination closing and sustaining payments due.**

(a) The date for closing of nominations of yearlings to stakes shall be May 15th and the date for closing of the nominations to futurities shall be July 15th. There shall



be no payments on yearlings except a nomination payment and the nomination payment shall be due not later than August 15th, except for state bred races for which the payment shall be due not later than October 15th.

(b) No more than one sustaining payment on 2-year-olds in stakes and futurities that do not have a 2-year-old division will be permitted.

(c) There shall be no conditions that call for payments in stakes or futurities to fall due after August 15th and before February 15th of the following year. No stake or futurity payment on 2-year-olds shall become due prior to March 15th and for all other ages not prior to February 15th of any year.

(d) In early closing events no payment on 2-year-olds shall become due prior to March 15th excluding fairs and sires stakes.

(e) No more than two sustaining payments on any horse of any age in any calendar year with the exception of the starting fee will be approved.

(f) All nominations and payments other than starting fees in early closing events shall be advertised to fall on the 15th day of the month.

**§ 205.278. Estimated purse.**

No estimated purse shall be advertised or published in excess of the actual purse paid or distributed during the previous year unless increased by guaranteed added money. No stake or futurity shall be raced for less than 75% of the estimated purse.

**§ 205.279. Excess entry fees.**

In early closing events, late closing events and overnight events requiring entry fees all moneys paid in by the nominators in excess of 85% of the advertised purse shall be added to the advertised purse and the total shall then be considered to be the minimum purse. If the race is split and raced in divisions, the provisions of Rule 12.17(b) of the USTA shall apply. Where overnight events are split and raced in eliminations rather than divisions all entrance/starting fees payable under the provisions of Rule 14.5 of the USTA shall be added to the advertised purse.

**§ 205.280. Sponsor's contribution.**

No stake or futurity shall be approved for extended pari-mutuel meetings if the sponsor's contribution of added money is not at least 30% of the purse and for all other meetings at least 10% of the purse shall be added.

**§ 205.281. Nominators' or breeders' awards.**

No sponsor shall pay monetary awards to nominators or breeders out of stake or futurity funds. All of the money contributed in nominating, sustaining and starting payments must be paid to the winner or winners.

**§ 205.282. Deductions prohibited.**

No deduction, voluntary or involuntary, may be made from any purse or stake or futurity except that if the conditions specifically so provide, reasonable deductions may be made for clerical, printing, postage and surety bond expenses specifically related to the purse, stake or futurity.

**§ 205.283. Fees held in escrow.**

All fees paid in early closing events shall be segregated and held in escrow by the sponsor until the event is contested.

**§ 205.284. Deviation from published conditions.**

All nominations and payments not governed by published conditions shall be void and any proposed deviation from the published conditions shall be punished by a fine for each offense, and any nominator who is allowed privileges not in accordance with the published conditions of the race, or which are in conflict with these rules, shall be debarred from winning any portion of the purse, and the said nominator and other persons who allowed these privileges shall be deemed to have been parties to a fraud.

**§ 205.285. Newly created stakes and futurities.**

No conditions for newly created stakes and futurities shall be written so as:

(1) To permit a horse to race in more than two heats or dashes in a single day.

(2) To provide for a filly division of a race with less added money than the colt division of a race, unless said conditions allow for a filly properly nominated and sustained in the filly division to start in the colt division upon proper declaration and the payment of the starting fee required for the colt division and the difference between any lower nominating or sustaining fees, or both, for the filly division and the higher nominating or sustaining fees, or both, for the colt division.

**§ 205.286. Sponsor's contribution by non-track sponsors.**

(a) The sum contributed by a non-track sponsor shall be considered forfeit and is to be included in the sum distributed in the event the stake or futurity is not raced, provided, however, that for the provisions of this paragraph the term "sum contributed" shall not include added money to be paid by a track member or other responsible party where the track member or other responsible party is someone other than the stake sponsor. In this case the stake sponsor shall not be held liable for the payment of the added money.

(b) If an event is not raced due to circumstances beyond the control of a non-track sponsor then the stake sponsor is not required to contribute a sum as added money but need only refund the nominating, sustaining and starting fees as it has collected toward the canceled event.

**§ 205.287. Events raced in divisions.**

(a) In the event a stake or futurity is split into divisions, the added money for each division shall be at least 20% of all nomination, sustaining and starting fees paid into the stake or futurity, except that in the case of a stake with a value of \$20,000 or less, and conducted at a non-extended meeting, the stake may be divided and each division raced for an equal share of the total purse if the advertised conditions so provide.

(b) Where a race other than a stake or futurity is divided, each division must race for at least 75% of the advertised purse. For splitting of stakes and futurities the USTA Rule 12.10 applies. Provided however that at non-extended meetings in the case of other added money early closing events, and early closers and late closers with a value of \$20,000 or less the race may be divided and raced in divisions and each division raced for an equal share of the total purse if the advertised conditions so provide.

**ENTRIES AND STARTERS REQUIRED.**

**§ 205.301. Entries required for overnight events.**

A licensed racing entity must specify how many entries are required for overnight events and after the condition

is fulfilled the event must be contested except when declared off by the Commission in accordance with these regulations.

**§ 205.302. Entries required for early and late closing events.**

In either early closing events or late closing events, if five or more horses are entered in to start, the race must be contested, except when declared off as provided in the Commission's regulations. At pari-mutuel race meetings, licensed racing entities may require five separate betting interests to start. Stakes and futurities must be raced if one or more horses are entered to start except when declared off as provided in the Commission's regulations.

**§ 205.303. Early closing events with fewer horses entered than required.**

In an early closing event, if fewer horses are entered than are required to start and all entrants are immediately notified, the horse or horses declared in and ready to race shall be entitled to all the entrance money and any forfeits from each horse named.

**§ 205.304. Number of Starters.**

(a) In any race where the number of horses declared in to start exceeds 11 on a 1/2-mile track, 12 on a 5/8-mile track, or 14 on a larger track, unless lesser numbers are specified in the conditions of the race, the race at the option of the track member conducting same stated before positions are drawn may be raced in elimination heats.

(b) In the absence of conditions providing for a lesser number of Starters no more than 2 tiers of horses, allowing 8 feet per horse will be allowed to start in any race and in no event shall there be allowed more than 11 Starters on a 1/2-mile racetrack, 12 Starters on a 5/8-mile racetrack or 14 Starters on a larger racetrack. At a county fair or other non-extended meetings where no pari-mutuel wagering is permitted there shall not be more than ten Starters on a 1/2-mile racetrack.

(c) In overnight events at extended pari-mutuel meetings and other meetings not more than eight horses shall be allowed to start on a 1/2-mile racetrack and not more than ten horses on larger tracks. Trailers are not permitted where the racetrack has room to score all horses abreast allowing 8 feet per horse, unless otherwise agreed upon by the track member and representative horsemen's association. Presiding Judges at county fairs, in their discretion, and prior to the draw, shall have the authority to limit the number of Starters in a race to a number less than ten, if in their judgment starting ten horses would be unsafe, taking into account the condition of the racetrack, the width of the racetrack and the class of horses participating.

**§ 205.305. Purse money distribution.**

(a) Unless otherwise provided in the conditions, all purses shall be distributed on the heat basis with the money awarded according to a horse's position in each separate heat of the race.

(b) Purse placing in overnight events shall be limited to five places.

(c) Unless otherwise specified in the conditions, the purse money distribution shall be: five or more Starters: 50-25-12-8-5%; four Starters only: 55-25-12-8%; three Starters only: 60-28-12%; two Starters only: 65-35%.

(d) In early closing events, late closing events or added money events if there are less than five Starters the remaining premium shall go to the race winner unless the conditions call for a different distribution.

(e) In overnight events if there are fewer than five Starters the premium for the positions for which there are no Starters may be retained by the track.

(f) If there be any premium or premiums for which horses have started but were unable to finish due to an accident, all unoffending horses who did not finish will share equally in the premium or premiums, but where there are fewer unoffending horses failing to finish than there are premiums for which horses have started but have not finished, the number of premiums in excess of the number of unoffending horses not finishing shall go to the winner.

(g) If there be any premium or premiums for which horses have started but were unable to finish and the situation is not covered by the preceding the premium shall be paid to the winner.

**ENTRY, DRAWING OF POST POSITIONS,  
POST DRAW**

**§ 205.311. Agreement to race under the rules.**

Every horse entry shall constitute an agreement by the person making the entry including, the owner, lessee, manager, agent, nominator, driver or other person having control of the horse to abide by and be subject to the rules and regulations of the Commission. Entries shall not be accepted for any horse to any race unless the declarer has furnished the race secretary with a negative Coggins test written certificate for that horse as required in Rule 20.12 of the USTA.

**§ 205.312. Horses not starting more than one race per day.**

No horse shall be permitted to start in more than one pari-mutuel race or fair race on any one racing day.

**§ 205.313. Length of race and number of heats.**

(a) Races or heats shall be given at a stated distance in units not shorter than a sixteenth of a mile.

(b) The length of a race and the number of heats shall be stated in the conditions for the race. If no distance or number of heats are specified all races shall be at a single mile.

**§ 205.314. Entry time.**

Unless otherwise specified in the conditions by the race secretary, the entry time shall be 9 a.m.

**§ 205.315. Payment of entrance and starting fee.**

The entrance or starting fee shall be due at time of declaration and payable not later than 1 hour prior to post time of the race to be contested, unless otherwise specified in the conditions for the race. The entrance or starting fee will not be refunded if the horse fails to start unless the horse dies between time of declaration to start and start of race. The entrance or starting fee shall be defined as the payment due with declaration to start.

**§ 205.316. Entry box.**

The licensed racing entity shall provide a locked box with an aperture through which entries shall be deposited. The Presiding Judge shall be in charge of the entry box.

**§ 205.317. Taking of entries.**

Entries may be taken by the racing office in person, by telephone or any other acceptable means approved by the licensed racing entity. Evidence of all entries must be deposited in the entry box before the time specified to enter. An entry must state the name of the horse, name of

the trainer, and name of the driver and the event in which the horse is to be entered to race. When requested by the race secretary the entry must also state the date and place of the horse's last start.

**§ 205.318. Search for entries by Presiding Judge.**

Just prior to opening of the box the Presiding Judge shall check with the race secretary to ascertain if any declarations are in the office and not deposited in the entry box and the race secretary shall ensure that they are declared and drawn in the proper event.

**§ 205.319. Opening of entry box and drawing of horses.**

The entry box shall be opened by the Presiding Judge at the advertised time who shall be responsible to ensure see that at least one horseman or an official representative of the horsemen is present. No owner or agent for a horse with an entry in the box shall be denied the privilege of being present. Under the supervision of the Presiding Judge all entries shall be listed, the eligibility verified, preference ascertained, Starters selected and post positions drawn. If it is necessary to reopen any race public announcement shall be made at least twice and the box reopened to a definite time.

**§ 205.320. Preference date.**

(a) Preference dates shall be given to horses in all overnight events conducted at licensed pari-mutuel racetracks in accordance with the following:

(1) The date of the horse's last previous start in a purse race during the current year is the horse's preference date with the following exceptions:

(i) The preference date on a horse that has drawn to race and has been scratched is the date of the race from which scratched.

(ii) When a horse is racing for the first time in the current year the date of a successful qualifying attempt shall be considered the horse's preference date.

(iii) Wherever horses have equal preference in a race, the actual preference of the horses in relation to one another shall be determined from the most recent previous starts which do not result in equal preference.

(iv) When an overnight race has been reopened because it did not fill all eligible horses declared into the race prior to the reopening shall receive preference over other horses subsequently declared regardless of the actual preference dates.

(b) This rule is not applicable at any meeting at which an agricultural fair is in progress.

(c) Nothing in this rule shall preclude a licensed racing entity from adopting a racetrack rule limiting an owner or trainer to one Starter in any single overnight event.

**§ 205.321. Qualifying races for overnight events.**

(a) Within 45 days of being entered, a horse that has not raced previously at the gait chosen must start in a qualifying race under the supervision of the Board of Judges and acquire at least one charted line by a licensed charter. To provide complete and accurate chart information on time and beaten lengths a standard photo-finish shall be in use.

(b) A horse that does not show a charted line for the previous season or a charted line within its last six starts must start in a qualifying race as set forth in subsection (a).

(c) The Judges may require any horse that has been on the Judges' List to start in a qualifying race. If a horse has raced in individual time not meeting the qualifying standards for that class of horse, it may be required to start in a qualifying race.

(d) The Judges may permit a horse to qualify by means of a timed workout consistent with the time of the races in which the horse will compete if adequate competition is not available for a qualifying race.

(e) To enable a horse to qualify for an overnight, qualifying races should be held at least 1 full week prior to the opening of any race meeting that opens before July 1st of a season and shall be scheduled at least twice a week. Qualifying races shall also be scheduled twice a week during the meeting unless otherwise agreed upon by the track member and representative horsemen's association.

(f) Where a race is conducted to solely qualify drivers, the race need not be charted, timed or recorded. This section is not applicable to races qualifying both drivers and horses.

(g) If a horse takes a win race record in a qualifying race or a matinee race the record must be prefaced with the letter "Q" wherever it appears, except in a case where immediately prior to or following the race the horse taking the record has been submitted to an approved urine or blood test.

**§ 205.322. Qualifying race for added money events.**

Where qualifying races are provided in the conditions of an early closing event, stake or futurity the qualifying race must be held not more than 5 days prior to contesting the main event (excluding Sunday) and omitting the day of the race.

**§ 205.323. Withdrawal of horse.**

After an entry to start has been made no horse shall be excused from the race without permission of the Presiding Judge. The Presiding Judge may impose a fine or suspension for violation of this provision.

**§ 205.324. Notification of scratched horse.**

Whenever a horse has been "scratched" by the Presiding Judge and placed on the Judges' List, the Presiding Judge shall specify the reason for the scratch.

**§ 205.325. Coupled entries.**

(a) When the Starters in a race include two or more horses owned or trained by the same person or trained in the same stable or by the same management, the starts shall be "coupled" as a single entry and a wager on one horse in the "entry" shall be a wager on all horses in the "coupled entry" unless approval has been granted by the Commission to race as separate entries under bona fide ownerships. The fact that those horses are trained by the same person shall be indicated prominently in the program.

(b) If the race is split in two or more divisions horses in an "entry" shall be seeded insofar as possible, first by owners, then by trainers, then by stables but the divisions in which they compete and their post positions shall be drawn by lot. The above provisions shall also apply to elimination heats.

(c) At all race meetings the person making the declaration of a horse which qualifies as a coupled entry with another horse entered in the same event shall be responsible to designate the word "entry" on the declaration blank.



(d) The Presiding Judge shall be responsible for coupling horses. In addition to the foregoing, horses separately owned or trained may be coupled as an entry where it is necessary to do so to protect the public interest for the purpose of pari-mutuel wagering only. However, where this is done entries may not be rejected. Provided further that when drivers participate in a pari-mutuel purse races in which they have an ownership interest or trainer interest in one or more of the horses, they must drive one of the horses in which they have the ownership interest or trainer interest.

(e) If one of the horses with common ownership or trainer while running in a race interferes or commits a foul preventing another horse in the race a better placing, the Judges may, in their discretion, disqualify both horses of common ownership or trainer. The Judges may use all relevant information, video of the incident and their respective experience to make the decision.

**§ 205.326. Judges' approval of drivers.**

No driver may be changed without permission of the Presiding Judge and for good cause. When an entry starts two or more horses, the Presiding Judge shall approve or disapprove the second and third drivers.

**§ 205.327. Transfer of ineligible horse.**

A horse nominated in an event to which it is ineligible may be transferred, with the consent of its owner, to any event to which it is eligible at the same gait.

**§ 205.328. Drawing of post positions.**

(a) For each individual race of a race card, post positions for horses in a race shall be conducted by a separate procedure to be determined by the Presiding Judge. The results of a draw procedure shall not be applied to more than one race of a race card, nor shall the results be applied to another race which is part of another race card.

(b) For races conducted under an elimination plan, the Presiding Judge shall draw the positions in which the horses are to start in the main event by one of the following methods, as required by the sponsor in the conditions for the event:

(1) The Presiding Judge shall draw positions to determine which of the two dash winners has the pole, and which the second position; which of the two horses that has been second shall start in third position; and which in fourth, and the like, or

(2) The Presiding Judge shall by lot have an open draw to determine the positions in which the horses are to start in the main event from among all horses qualified for the main event.

(c) In the event the sponsor fails to prescribe in the conditions for the event the method to be used for the drawing of post positions the provisions of the USTA's Rule 14.19(a) shall apply.

**§ 205.329. Also eligible.**

(a) Not more than two horses may be drawn as "also eligible" for a race and their positions shall be drawn along with the Starters in the race. In the event one or more horses are excused by the Judges, the also eligible horse or horses shall race and take the post position drawn by the horse that it replaces, except in handicap races. In handicap races the also eligible horses shall take the place of the horse that it replaces in the event that the handicap is the same. In the event the handicap is different the also eligible horse shall take the position on the outside of horses with a similar handicap.

(b) No horse may be added to a race as an also eligible unless the horse was drawn as this at the time entries closed. No horse may be barred from a race to which it is otherwise eligible by reason of its preference because it has been drawn as an "also eligible."

(c) A horse moved into the race from the also eligible list cannot be withdrawn except by permission of the Judges but the owner or trainer of a horse shall be notified that the horse is to race. All horses on the also eligible list and not moved in to race by scratch time shall be released.

**§ 205.330. Horses omitted through error.**

For all events, including, but not limited to overnight and stakes races, all drawings shall be final unless there is conclusive evidence that a properly declared horse, eligible at the time of entry, has been mistakenly omitted from the race through the error of the licensed racing entity, its agent or employee, in which case, the racing secretary shall immediately redraw the race in question, provided, that the error is discovered prior to scratch time or the printing of the program whichever is sooner.

**§ 205.331. When an ineligible horse races.**

(a) A nominator is required to guarantee the identity and eligibility of the nominations and entries and if given incorrectly the nominator may be fined, suspended or expelled, and any winnings shall be forfeited and redistributed to eligible entries.

(b) A person obtaining a purse or money through fraud or error shall surrender or pay the same to the sponsor of the event, failing which the person or persons and the horse or horses shall be suspended until payment is made, whereupon the purse or money shall be awarded to the party justly entitled to it. However, where any horse is ineligible as a result of the negligence or action of the race secretary the licensed racing entity shall reimburse the owner for the resultant loss of winnings.

**§ 205.332. Effect of failure to enter on time.**

When a licensed racing entity requires a horse to be entered at a stated time, failure to declare the timely entry as required shall be considered a withdrawal from the event.

**POSTPONEMENT**

**§ 205.351. Postponement.**

(a) In addition to the Commission's authority set forth in the act, USTA Rule 15, section 1, is incorporated herein and shall govern matters related to the postponement of races.

(b) Each licensed racing entity shall report a postponement to the Presiding Judge and the Commission in an expeditious manner.

**STARTING OF HORSES**

**§ 205.371. Starter's control.**

In addition to the duties and responsibilities set forth in this chapter, the Starter shall be under the supervision of the Presiding Judge and shall have control of the horses from the formation of the parade until the Starter gives the word "go."

**§ 205.372. Starting gate requirements.**

(a) Every licensed racing entity shall utilize a mobile starting gate of a type and quality approved by the Commission. Every licensed racing entity shall maintain a standby mobile starting gate similarly approved. The arms of all starting gates shall be provided with a screen

or a shield in front of the position for each horse and the arms shall be perpendicular to the rail. Starting gates at pari-mutuel tracks shall be equipped with systems approved by the Commission providing direct two-way voice communication with the Judges stand.

(b) Each licensed racing entity must specify in writing to the Commission the exact distance prior to the beginning of the racing meet and have it clearly defined in their program.

(c) No person shall be allowed to ride in the starting gate except the Starter, the gate operator and a patrol Judge, unless permission has been granted by the Commission.

**§ 205.373. Scoring of horses/coming to starting gate.**

After one or two preliminary warming up scores the Starter shall notify the drivers to come to the starting gate. During or before the parade the drivers must be informed as to the number of scores permitted. The horses shall be brought to the starting gate no nearer than 1/8 of a mile before the start as the racetrack will permit. On mile tracks horses will be brought to the Starting gate at the head of the stretch.

**§ 205.374. Speed of gate.**

Allowing sufficient time so that the speed of the gate can be increased gradually the following minimum speeds will be maintained.

- (1) For the first 1/8 mile, not less than 11 miles per hour.
- (2) For the next 1/16 of a mile not less than 18 miles per hour.
- (3) From that point to the starting point, the speed will be gradually increased to the maximum speed.
- (4) When the speed has been reached in the course of a start there shall be no decrease except in the case of a recall.

**§ 205.375. Starting point.**

The starting point will be a point marked on the inside rail at a distance of not less than 200 feet from the first turn. The Starter shall give the word "go" at the starting point.

**§ 205.376. Recall procedure.**

In case of a recall, a light plainly visible to the driver shall be flashed and a recall sounded but the starting gate shall proceed out of the path of the horses. Whenever possible the Starter shall leave the wings of the gate extended and gradually slow the speed of the gate to assist in stopping the field of horses. In emergencies, however, Starters shall use their discretion to close the wings of the gate.

**§ 205.377. Reasons for recall.**

The Starter may sound a recall only for the following reasons:

- (1) A horse scores ahead of the gate.
- (2) There is interference.
- (3) A horse has broken equipment.
- (4) There is a malfunction of the starting gate.
- (5) A horse falls before the word "go" is given.
- (6) A horse comes to the gate out of position.

**§ 205.378. No recall after the word "go."**

(a) There shall be no recall after the word "go" has been given and any horse regardless of its position or an accident shall be deemed to be a Starter from the time it entered into the Starter's control, unless dismissed by the Starter.

(b) *Breaking Horse.* The Starter shall endeavor to get all horses away in position and on proper gait but no recall shall be issued for a breaking horse.

**§ 205.379. Violations of the starting rule.**

A fine or suspension or both from driving not to exceed 15 days may be applied to any driver by the Starter for the following starting violations:

- (1) Delaying the start.
- (2) Failure to obey the Starter's instruction.
- (3) Rushing ahead of the inside or outside wing of the gate.
- (4) Coming to the starting gate out of position.
- (5) Crossing over before reaching the starting point.
- (6) Interference with another driver during the start.
- (7) Failure to come up into and stay in position.
- (8) After coming to the gate, failure to keep one line in each hand until the word "go," except for the purpose of adjusting equipment.

**§ 205.380. Loudspeaker.**

Use of a mechanical loudspeaker for any purpose other than to give instructions to drivers is prohibited. The volume shall be no higher than necessary to carry the voice of the Starter to the drivers.

**§ 205.381. Holding horses before start.**

Horses may be held on the backstretch not to exceed 2 minutes awaiting post time, unless delayed by an emergency.

**§ 205.382. Starting two tiers of horses.**

(a) In the event there are two tiers of horses the withdrawing of a horse that has drawn or earned a position in the front tier shall not affect the position of the horses that have drawn or earned positions in the second tier.

(b) Whenever a horse is withdrawn from any tier horses on the outside move in to fill up the vacancy. Where a horse has drawn a post position in the second tier the driver of the horse may elect to score out behind any horse in the first tier so long as he does not thereby interfere with another trailing horse or deprive another trailing horse of a drawn position.

**§ 205.383. Horse out of position at start.**

When a horse comes to the gate out of its assigned post position and gains an unfair advantage by moving either to the left or right of its assigned post position before the Starter gives the word "go" said horse may be disqualified and placed by the Judges.

**§ 205.384. Failure to follow instructions of the Starter.**

The driver of any horse refusing or failing to follow the instructions of the Starter as to the parade or scoring ahead of the pole horse may be fined or suspended by the Starter.

**§ 205.385. Horses deemed to have started.**

The horses shall be deemed to have started when the word "go" is given by the Starter and all the horses must go the course except in case of an accident, broken equipment or any other reason in which it is the opinion of the Judges that it is impossible or unsafe to go the course.

**§ 205.386. Practice of emergency procedures.**

Every licensed Starter is required to check the starting gate for malfunctions before beginning any race meeting and to practice the procedure to be followed in the event of a malfunction. Both the Starter and the driver of the gate must be familiar with emergency procedures and the Starter is responsible for the training of the drivers of the procedures.

**§ 205.387. Starting without a gate.**

When horses are started without a gate, the Starter shall have control of the horses from the formation of the parade until the Starter gives the word "go." The Starter shall be located at the wire or other point of start of the race at which point as nearly as possible the word "go" shall be given. No driver shall cause unnecessary delay after the horses are called. After two preliminary warming up scores, the Starter shall notify the drivers to form in parade.

**§ 205.388. Positions in winning heat.**

The horse winning a heat shall take the pole the succeeding heat, and all others shall take their positions in the order they were placed the last heat. When two or more horses shall have made a dead heat, their positions shall be settled by lot.

**§ 205.389. Refunds of entry money.**

No refunds of entry money can be made for any purposes once the entered horse is in the control of the Starter.

**RACING RULES/CONDUCT OF THE RACE****§ 205.401. Driving violations.**

A driver shall not commit any of the following acts which are considered violations of the driving rules:

(1) Change course or position, swerve in or out, or bear in or out during any part of the race in a manner as to compel another horse to shorten its stride or cause another driver to change course, take the horse back or otherwise pull the horse out its stride.

(2) Jostle, strike, hook wheels or interfere with another horse or driver.

(3) Cross sharply in front of a horse or cross over in front of a field of horses in a reckless manner endangering other drivers.

(4) Swerve in and out or pull up quickly.

(5) Crowd a horse or driver by "putting a wheel under him."

(6) Carry a horse out.

(7) Sit down in front of a horse or take up abruptly in front of other horses so as to cause confusion or interference among trailing horses.

(8) Let a horse pass inside needlessly or otherwise help another horse to improve the horse's position in the race.

(9) Commit any act which shall impede the progress of another horse or cause the horse to break.

(10) Change course after selecting a position in the home stretch or swerve in and out or bear in and out in a manner as to interfere with another horse or cause the horse to change course or take back.

(11) To drive in a careless or reckless manner or fail to maintain reasonable control of the horse at all times during the race.

(12) Kick the horse which shall be defined as a blow or thrust with the foot against any part of the horse's body or to impel by striking with the foot. Removal of a foot from the stirrups or any foot supports as provided in § 205.408 (relating to foot out of stirrup) shall not alone constitute the offense of kicking.

(13) Cross the inside limits of the course.

(14) Lay off a normal pace and leave a hole when it is well within the horse's capacity to keep the hole closed.

(15) Fail to set, maintain or properly contest a pace comparable to the class in which the driver is racing considering the horse's ability, track conditions, weather and circumstances confronted in the race.

**§ 205.402. Requirements for filing an objection.**

All complaints by drivers of any foul driving or other misconduct during the race must be made at the termination of the race unless the driver is prevented from doing so by an accident or injury. A driver who wishes to enter a claim of foul or other complaint relating to the running of the race must, before dismounting, inform the Judges of the driver's intent to enter the claim or complaint and immediately proceed to the appropriate telephone or Judges' stand where the claim or complaint shall be immediately entered. The Presiding Judge shall not cause the "official" sign to be displayed until the driver's claim or complaint shall have been entered and considered. No appeal to the Commission shall be heard based on the Presiding Judge's "no-call."

**§ 205.403. Driving violation committed by driver of coupled entry.**

If a person driving a horse as a coupled entry in the race, commits a racing violation or infraction as set forth in § 205.401 (relating to driving violations), the Presiding Judge shall set the offending horse back. The horse coupled in the entry with the offending horse shall also be set back if the Presiding Judge finds that the horse improved its finishing position as a direct result of the offense committed by the offending horse.

**§ 205.404. Placing of horses by the Judges.**

In case of interference, collision or violation of any of the previous restrictions, whether occurring before or after the start, the Judges may place the offending horse back one or more positions in that heat or race. In the event the collision or interference prevents a horse from finishing the heat or race, the offending horse may be disqualified from receiving any winnings and the driver may be penalized. In the event a horse is set back under its provision, the offending horse must be placed behind the horse with which it interfered and did not finish.

**§ 205.405. Fraudulent or unsatisfactory driving.**

(a) A race must be properly contested by every driver and horse in that race and must be driven to the finish. If the Presiding Judge believes that a horse was driven in an intentionally inconsistent manner or fraudulently, the Presiding Judge shall consider it a violation and the driver and anyone in concert with him or her shall be penalized. The Presiding Judge may substitute a competent and reliable driver at any time. The substituted



driver shall be paid at the discretion of the Judges and the fee retained from the purse money due the horse if any.

(b) In the event a drive is unsatisfactory due to lack of effort or carelessness and the Presiding Judge believes that there is no fraud, gross carelessness or deliberately inconsistent drive they shall impose a penalty under this subsection including but not limited to a fine, suspension or revocation.

**§ 205.406. Removal or substitution of driver.**

If in the opinion of the Presiding Judge a driver is unfit or incompetent to drive for any reason or refuses to comply with the directions of the Judges or is otherwise reckless in conduct and endangers the safety of horses or other drivers in the race, the driver may be removed and another driver substituted at any time after the positions have been assigned in the race and the offending driver shall be penalized.

**§ 205.407. Horse fails to finish heat.**

If for any reason, other than being interfered with or having broken equipment, a horse fails to finish after starting in a heat, that horse shall be ruled out of subsequent heats of the same race.

**§ 205.408. Foot out of stirrup.**

As set forth in § 205.401 (relating to driving violations), improper conduct is forbidden in a race. After the starting gate is in motion, both feet of the driver must be kept in the stirrups at all times until after the finish of the race, except that a driver shall be allowed to remove a foot from the stirrups briefly to pull earplugs.

**§ 205.409. Use of whip.**

(a) Drivers will be allowed whips not to exceed 4 feet, plus a snapper not longer than 6 inches. All whips are subject to inspection and measurement by the Presiding Judge or the Commission. The following actions shall be considered as excessive or indiscriminate use of the whip and a violation of the rules of racing:

- (1) Causing visible injury to the horse.
- (2) Whipping a horse after the finish of a race or after a horse is no longer in contention in the race.
- (3) Whipping under the arch or shafts of the sulky.

(b) The use of the whip shall be confined to an area above and between the sulky shafts to include the sulky shafts and the outside wheel discs. Drivers shall keep a line in each hand from the start of the race until the finish of the race.

(c) The whip shall be used in a conventional manner and shall be held in the handle area at all times. Whipping shall be restricted to elbow and wrist action only and the whipping arm shall not be raised above shoulder height.

(d) On their own accord or if there is an allegation of excessive or brutal use of the whip, the Presiding Judge may immediately direct that the racetrack veterinarian perform a visual inspection of each horse following the specific race to determine if there is evidence of excessive or brutal use of the whip. A representative of the horsemen's organization or other person chosen by the driver may be present.

(e) Alteration of whips in any manner shall be considered a prohibited practice and shall subject the licensee to penalty.

**§ 205.410. Other devices prohibited.**

The use of any goading or prodding device, chain, mechanical or electrical devices or appliances other than the ordinary whip or crop upon any horse in any race shall constitute a violation of this rule, regardless of whether the device is operational or functional. A licensee violating this provision shall be fined, suspended or both.

**§ 205.411. Penalties for prohibited use of whip.**

(a) As set forth in § 205.409 (relating to use of whip), the brutal use of a whip or crop or excessive or indiscriminate use of the whip or crop shall be considered a violation of the rules of racing and shall be punished by the following fines or suspension, or both:

- (1) Minor infraction: \$200, may be placed.
- (2) Major infraction: 1st violation—\$250 fine and 3-day suspension; 2nd violation—\$500 and 5-day suspension; 3rd violation—\$500 fine and 10-day suspension.

(b) All licensed racing entities conducting a pari-mutuel meeting shall publish the Commission's rules pertaining to whipping in each day's official racing program.

**§ 205.412. Breaking from gait.**

(a) When a horse breaks from its programmed gait, the driver shall at once, where clearance exists, take the horse to the inside or outside and pull him to its gait.

- (b) The following shall be considered violations:
  - (1) Failure to properly attempt to pull the horse to its gait.
  - (2) Failure to take to the outside where clearance exists.
  - (3) Failure to lose ground while on a break.

**§ 205.413. Placing of breaking horse by Judges.**

(a) The Judges, may in their discretion, set back a breaking horse at the finish when a contending horse properly on its gait is lapped on the hind quarter of the breaking horse. Except, if the breaking horse was off stride due to interference.

(b) Any horse making a break which causes interference to other contending horses may be placed behind all offended horses.

(c) If, in the opinion of the Judges, a driver of a horse on a break reasonably complies rule in subsection (b), no fine or suspension shall be imposed on the driver.

**§ 205.414. Fraudulent breaking of horse.**

If, in the opinion of the Judges, a driver allows the horse to break for purposes of intentionally or fraudulently losing a heat, the driver may be fined, suspended or both.

**§ 205.415. Calling and noting breaks.**

To assist in determining the matters contained in §§ 205.413 and 205.414 (relating to placing of breaking horse by Judges; and fraudulent breaking of horse) and this section, it shall be the duty of one of the Judges to call out every break made and note the break and character of it in writing.

**§ 205.416. Horse's right of the course.**

Horses called for a race shall have the exclusive right of the course and all other horses must vacate the racetrack at once, unless permitted to remain by the Presiding Judge.

**§ 205.417. Driver mounted in sulky at finish.**

A driver must be mounted in the sulky at all times during the race or the horse must be placed as a non-finisher.

**§ 205.418. Use of wheel discs and mud fenders.**

It shall be the responsibility of the owner, trainer or driver to provide every sulky used in a race with solid one-color or colorless wheel discs on the inside and out-side of the wheel. The Presiding Judge may order the use of mud guards at the pari-mutuel racetrack.

**§ 205.419. Talking on the track.**

Excessive or unnecessary conversation, or both, between and among drivers while on the racetrack during the time when colors are required is prohibited. Any violation of this rule may be punished by a fine, suspension or combination thereof.

**§ 205.420. Passing lane.**

(a) With the approval of the Commission, a licensed racing entity may remove the solid inside hub rail and extend the width of its homestretch up to 10 feet inward in relation to the width of the rest of the track to create the so-called passing lane. The licensed racing entity shall provide the Commission with an architectural rendering of the passing lane and a certification of the track's dimensions.

(b) The passing lane shall not be used by the lead horse. The passing lane may only be used during the final 1/8 of the race. A driver who goes into the passing lane and passes another horse before the last 1/8 of the race may be disqualified by the Presiding Judge.

(c) A horse, other than the lead horse, may be driven into the passing lane to attempt to pass another horse. A horse driven into the passing lane which does not gain ground on the lead horse may be considered blocking the rest of the field if the horse impedes the progress of the trailing horses. If in the opinion of the Presiding Judge a driver blocks another horse's forward progress while in the passing lane, that horse may be placed for interference.

(d) A driver using the passing lane must first have complete clearance of the pylons. Any horse or sulky running over of pylons or going to the inside of the pylons shall be disqualified as set forth below.

(e) Pylons will be:

- (1) 2 feet above ground;
- (2) 30-degree angle inward to track surface;
- (3) 40 feet apart on the turns;
- (4) 60 feet apart on the straight aways.

**§ 205.421. Pylon violations.**

(a) A driver must have full clearance of the pylons when entering the passing lane. A driver who drives inside of one or more pylons when entering or using the passing lane may be disqualified.

(b) A horse while on stride, or part of the horse's sulky, that leaves the race course by going inside the pylons which constitutes the inside limits of the course, when not forced to do so as a result of the actions of another driver or horse, or both, shall be in violation of this rule. In addition, when an act of interference causes a horse, or part of the horse's sulky, to cross inside the pylons and the horse is placed by the Judges, the offending horse shall be placed behind the horse with which it interfered.

(c) For purposes of placing the horse by the Judges the following shall apply:

(1) If a horse while on stride, or part of the horse's sulky, goes inside two consecutive pylons, the offending horse shall be placed behind all horses that are lapped on to the offending horse at the wire;

(2) If a horse while on stride, or any part of the horse's sulky, goes inside three or more consecutive pylons, the offending horse shall be placed last;

(3) If in the opinion of the Judges a horse while on stride, or part of the horse's sulky, goes inside a pylon and that action gave the horse an unfair advantage over other horses in the race or the action helped improve its position in the race, the horse may be placed at the discretion of the Judges.

(d) The following penalties shall apply to drivers for violation of the above rules:

(1) For the 1st violation, a monetary penalty of \$200 shall be imposed;

(2) For the 2nd violation within a year of the first violation, a monetary penalty of \$300 shall be imposed;

(3) For the 3rd violation within a year of the 1st violation of the first violation, a minimum monetary penalty of \$500 plus a suspension for 3 days shall be imposed;

(4) For the 4th violation within a year of the 1st violation of the first violation, a minimum monetary penalty of \$1,000 and a suspension for 5 days shall be imposed.

**§ 205.422. Removal of passing lane.**

The licensed racing entity, with the consent and approval its horsemen's organization, may petition the Commission for the removal of the passing lane. The petition shall include all applicable and necessary information from the licensed racing entity and its horseman's organization to support the request for the removal of the passing lane.

**EQUIPMENT****§ 205.431. Sulkies.**

(a) All racing sulkies must meet or exceed the standards approved by the USTA prior to being used in any pari-mutuel racetrack within this Commonwealth. The Commission may from time to time adopt any amended sulky standards and publish those standards in the *Pennsylvania Bulletin*.

(b) The Commission may adopt, by publication in the *Pennsylvania Bulletin* any subsequent amendments to the guidelines, standards, recommendations for the design, performance and certification for sulkies as issued by the USTA.

(c) The Commission may authorize variances from the above sulky standards and may approve for use any sulky which does not otherwise qualify under the previous sections, if in the Commission's opinion, the sulky does not pose a safety hazard, does not impair the horse or driver and does not undermine the competitiveness of the horse and driver.

**§ 205.432. Use of hobbles.**

No horse shall wear hobbles in a race unless it starts in the race in the first heat and having so started shall continue to wear them to the finish of the race and any person found responsible for removing or altering a horse's hobbles during a race or between races shall be

fined, suspended or both. Other than as set forth previously, the use of hobbles from race to race shall be in the sole discretion of the trainer and not require qualifying the horse.

**§ 205.433. Nasal strips.**

(a) The Commission shall authorize and permit non-medicated equine latex nasal strips to be used at pari-mutuel racetracks within this Commonwealth. All other artificial means of opening nasal passages are specifically prohibited.

(b) Trainers must inform the equipment identifier regarding the trainer's use of a nasal strip and document its use as equipment worn by the horse.

(c) The licensed racing entity shall ensure the public is notified of all horses using the nasal strips by publication in the program, public address system or other approved methods.

**§ 205.434. Cornell Collar.**

The Cornell Collar may be used by trainers as an approved piece of equipment within this Commonwealth. Trainers shall notify the equipment checker and duly list the Cornell Collar as a part of the horse's equipment.

**§ 205.435. Trainer responsibility for horse equipment.**

It shall be the responsibility of the trainer to see that each horse under the trainer's supervision is safely equipped for each race and if it is determined by the Judges that a horse has been raced with unsafe or faulty equipment the Judges may impose a fine, suspension or both.

**§ 205.436. Other equipment.**

(a) Any change in equipment must be approved by the Presiding Judge and must be shown on the racing program. Any owner or trainer who wishes to change any equipment on a horse from one race to another shall apply in writing to the Judges no later than at the time of declarations.

(b) No horse will be permitted in a race to wear any type of equipment that covers, protrudes or extends beyond its nose or that in any way could interfere with the true placing or finish of the horse.

**CONDUCT AND DECORUM OF RACING PARTICIPANTS**

**§ 205.451. Improper language to officials.**

No owner, trainer, driver, groom, attendant of a horse or any other licensee shall use improper or inappropriate language to a Commission official, Commission employee or race official or be guilty of any improper conduct toward the race official or persons serving under their direction, when the improper language or conduct refers to the administration and the performance of the race officials' duties.

**§ 205.452. Shouting.**

Continuous loud shouting or similar behavior is expressly forbidden during the conduct of a race.

**§ 205.453. Committing assault or battery.**

No person at any time or place shall commit an assault or an assault and battery upon another.

**§ 205.454. Betting on a horse other than own.**

No owner, trainer, driver or groom shall directly or indirectly place a bet on any other horse participating in the same race as the owner's, trainer's, driver's or groom's

horse. Any wager placed by the owner, trainer driver or groom on their horse participating in the race shall be to "win."

**§ 205.455. Failure to report fraudulent or corrupt proposal.**

It shall be the duty of every licensee to immediately report to the Commission or the Presiding Judge if that licensee has been approached with an offer, suggestion or promise of a bribe or other thing of value to commit, engage or participate in a corrupt, improper or fraudulent activity relating to racing.

**§ 205.456. Fraudulent or injurious conduct forbidden.**

Conduct on the part of a licensee, participant or patron, which is fraudulent or injurious in its nature or otherwise reflects negatively on the sport, although not specifically addressed by the Commission's regulations, is strictly forbidden. A person who, individually or in concert with one another shall intentionally, fraudulently and corruptly by any means affects the outcome of any race or commits any other act injurious to the sport shall be guilty of a violation.

**§ 205.457. Conspiracy to commit a violation.**

If two or more persons agree, plan, combine and conspire together in any manner and regardless of their location, for the purpose of violating any of the rules of racing and shall commit some act in furtherance of the plan it shall constitute a conspiracy and a violation. The Commission may also refer these matters to criminal law enforcement.

**§ 205.458. Withholding information in an investigation.**

In the course of an underlying investigation or hearing, where an oath is administered by the Judges, or other duly appointed person legally authorized to administer oaths, and the party knowingly testifies falsely or withholds information pertinent to the investigation the person shall be fined, suspended, or both.

**§ 205.459. Financial responsibility.**

A licensee may not knowingly accumulate unpaid obligations, default in obligations, issue drafts or checks that are dishonored or payment refused, or otherwise display financial irresponsibility reflecting negatively on the sport.

**§ 205.460. Registration of nerved horses.**

All horses that have been nerved shall be so designated on the USTA registration certificate, electronic eligibility and be registered with the Commission Veterinarian. It is the responsibility of the owner of the horse at the time the horse is nerved to see that this information is placed on the registration certificate and the electronic eligibility. No trainer or owner will be permitted to enter or start a horse that is high nerved. It shall be the responsibility of the owner or trainer, or both of a horse that has been low-nerved to post on the bulletin board in the racing office at each racetrack where the horse competes the fact that the horse has been low-nerved and it is the responsibility of each track member to provide a space in the racing office where the fact of nerving can be posted in accordance with this rule.

**§ 205.461. Spayed mares.**

The fact that a mare has been spayed must be noted on the registration certificate, the electronic eligibility and any program when the mare races. It shall be the owner's



responsibility to report the fact that the mare has been spayed to the USTA and return its papers for correction.

**§ 205.462. Equine Infectious Anemia.**

No owner, trainer, driver, attendant or other person representing a horse which has previously tested positive for Equine Infectious Anemia (EIA) shall knowingly cause the horse to be declared into any race. No owner, trainer, driver, attendant or other person shall seek to transfer the horse without first notifying the prospective purchaser or transferee of the fact that the horse had previously tested positive for EIA.

**§ 205.463. Negative Coggins test certificate.**

It shall be the responsibility of the trainer of a horse to furnish to the racing office all pertinent information regarding the Coggins test of the horse so that it may be entered on the electronic eligibility of the horse prior to the horse's first start in the current year. The submission to the Commission or its designees of Coggins tests which are false, misleading or have been tampered with shall be an integrity violation and may result in the person being fined, suspended or having the person's license revoked.

**§ 205.464. Trainer of horse of suspended person.**

A trainer who enters, trains or races a horse knowing the horse to be owned wholly or in part by a person or persons barred or otherwise disqualified from participating in racing shall be fined and suspended by the Commission.

**PROTESTS**

**§ 205.471. Protests.**

(a) Protests to the participation of a horse entered in any race shall be made to the Judges in writing, signed by the objector, and filed not later than 60 minutes prior to post time for the first race on the day in which the questioned horse is entered. A protest not timely received shall be denied on those grounds. A protest shall set forth the specific reasons for the protest in detail as to establish probable cause for the protest and the information provided by the protestor shall be verified and signed in affidavit form. The Judges may upon their own motion consider an objection until the time as the horse becomes a Starter.

(b) A protest to a horse which is entered in a race may be made on, but not limited to, the following grounds or reasons:

(1) A misstatement, error or omission in the entry under which a horse is to run;

(2) The horse which is entered to run is not the horse it is represented to be at the time of entry or the age was erroneously given;

(3) The horse is not qualified to enter under the conditions specified for the race, or the allowances are improperly claimed either by age, sex, earnings or wins or incorrect under the conditions of the race;

(4) The horse is owned in whole or in part, or leased or trained by a person ineligible to participate in racing or otherwise ineligible to own a race horse as provided in these rules; or the horse was entered without regard to a lien filed previously with the racing secretary.

(c) The Judges may scratch from the race any horse which is the subject of a protest if the Judges have reasonable cause to believe that the objection is valid.

(d) Notwithstanding any other provision in this section, the time limitation on the filing of protests shall not

apply in any case in which fraud or willful misconduct is alleged provided that the Judges are satisfied that the allegations are bona fide and have been duly verified by affidavit.

(e) The Judges may order any purse, award or prize for any race withheld from distribution pending the determination of any protest. In the event any purse, award or prize has been distributed to an owner or for a horse which by reason of a protest or other reason is disqualified or determined to be not entitled to the purse, award or prize, the Judges or the Commission may order the purse, award or prize returned and redistributed to the rightful owner or horse. Any person who fails to comply with an order to return any purse, award or prize erroneously distributed shall be subject to fines and suspension.

**FINES, SUSPENSIONS AND EXPULSIONS**

**§ 205.501. Suspension or revocation of driver, trainer or groom license.**

In accordance with the provisions of the act, the license of any driver, trainer or groom may be suspended, revoked or a money fine may be imposed, at any time for:

(1) Failure to obey the instructions of a racing official.

(2) Failure to drive in a race when programmed, unless excused by the Presiding Judge.

(3) Consumption of intoxicating beverages within 4 hours of the first post time of the program on which the licensee is carded to drive.

(4) Appearing in the paddock in an unfit condition to perform the licensee's duties.

(5) Fighting.

(6) Assault or battery upon any other person.

(7) Offensive, profane or threatening language.

(8) Smoking while on the race track in silks and during actual racing hours.

(9) Warming up a horse without silks at any time.

(10) Disturbing the peace.

(11) Refusal to take a breath analyzer test.

(12) Refusal, when requested by the Commission to submit evidence of physical and mental ability or to submit to a physical examination, or both.

(13) Failure to participate in post parade, unless specifically excused by Presiding Judge.

(14) Any other act or conduct detrimental to the sport or reflects negatively on the sport.

(15) Violation of any rule, regulation, order or directive of the Commission.

(16) Failure or refusal to obey a rule, regulation, order or directive of the Commission, including but not limited to a properly issued records subpoena.

(17) Falsifying or misrepresenting answers on the application for license.

(18) Failure to name a driver at the properly prescribed time of the race meet.

**§ 205.502. Suspension until fines paid.**

All persons who have been fined for violation of these rules and regulations shall be suspended until the fine has been paid in full.

**§ 205.503. Recording and posting of penalties.**

Written notice of all fines and other penalties imposed by the Judges shall be delivered to the person penalized in accordance with the applicable provisions of Commission's regulations, posted immediately at the race secretary's office of the licensed racing entity and forwarded to the USTA.

**§ 205.504. Effect of minor suspension on future engagements.**

Where the suspension imposed by the Judges is for a driving violation and does not exceed in time a period of 5 days, the driver may complete the engagement of all horses programmed to race in before the penalty becomes effective. With permission from the Presiding Judge, a driver may drive in stake, futurity, early closing and feature races, during a suspension of 5 days or less but the underlying suspension will be extended 1 day for each date the driver drives in a race.

**§ 205.505. Effect of suspension penalty.**

Whenever a suspension is prescribed in these rules it shall be construed to mean an unconditional exclusion and disqualification from any participation, either directly or indirectly, in the privileges and uses of the course and grounds of the licensed racetrack, unless otherwise specifically authorized by the Presiding Judge when the suspension is imposed.

**§ 205.506. Effect of penalty on the horse.**

No horse shall have the right to compete while owned or controlled wholly or in part by a suspended, expelled, disqualified or excluded person. No suspended, disqualified or excluded person shall drive, nor shall a suspended or disqualified horse perform in a race.

**§ 205.507. Fraudulent transfer of a horse.**

(a) The attempted transfer of a horse by a trainer while under suspension or by the owner of the horse on behalf of the suspended trainer to avoid or circumvent the trainer's suspension shall constitute fraud and will be a separate violation of the rules. The person seeking the approval by the Judges of a transfer of a horse shall provide supporting information and records relating to the new programmed trainer of the horse, and the relationship to the suspended trainer.

(b) No transfers shall be approved if the transfer is to a spouse, family member or to a current or former employee.

**§ 205.508. Participation by a suspended person or horse.**

A licensee knowingly and willfully allowing a suspended, disqualified or excluded person to participate in a race or a suspended or disqualified horse to start in a race shall be subject to a fine or suspension.

**§ 250.509. Reciprocity of penalty imposed by other racing authorities.**

(a) All penalties imposed by other racing authorities, state racing commissions or the USTA shall be recognized and fully enforced by the Commission unless application is made by the licensee for a hearing before the Commission at which time the applicant may show cause as to why the penalty should not be enforced against him in this Commonwealth. If a hearing is granted, the Commission may delay enforcement of the reciprocal penalty.

(b) When the Commission receives notice that a person or horse, or both, has been penalized by another racing authority, state racing commission or by the USTA, the

Commission may, for good cause shown and upon consideration of the record of the proceedings before the racing authorities and state racing commissions, modify or adjust the penalty accordingly to conform with the Commission's regulations.

(c) Notwithstanding the previous provisions, the Commission may conduct its own original inquiry and investigation regarding the penalties imposed by another racing authority or state racing commission and may take separate action based on the conclusion of its investigation.

**§ 205.510. Dishonored payment.**

Any person who pays an entry, a fine or other claim to the Commission or any entry, claim, or fine to a licensed racing entity by a draft, check or money order, which upon presentation is protested, payment refused or otherwise dishonored, may be subject to an additional fine. If the protested, refused or dishonored payment is for a fine, the licensee shall remain suspended until the original fine and the additional fee has been paid.

**Subpart E. THOROUGHBRED RULES OF RACING (HORSE)**

Chap.	
301.	GENERAL PROVISIONS—TEMPORARY REGULATIONS
303.	LICENSING, DUTIES AND RESPONSIBILITIES OF THOROUGHBRED OCCUPATIONAL LICENSEES—TEMPORARY REGULATIONS
305.	RULES OF THOROUGHBRED RACING—TEMPORARY REGULATIONS
307.	PENNSYLVANIA BREEDERS' FUND PROGRAM—TEMPORARY REGULATIONS

**CHAPTER 301. GENERAL PROVISIONS—TEMPORARY REGULATIONS**

Sec.	
301.1.	Scope
301.2.	Definitions.

**§ 301.1. Scope.**

(a) The rules, regulations and policies under which thoroughbred horse racing shall be conducted in this Commonwealth are prescribed by the act and by the State Horse Racing Commission.

(b) No person shall participate in or engage in any aspect of pari-mutuel racing activities without a proper license.

(c) All persons, whether licensed or not licensed, shall be subject to and abide by the laws of the Commonwealth, and the regulations of the Commission and shall accept the decisions of the Board of Steward, the Bureau Director or the Commission on matters arising within their exclusive jurisdiction and authority, subject to the right to an administrative appeal.

**§ 301.2. Definitions.**

The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

*Age*—Beginning on the first day of January in the year in which the horse is foaled.

*Allowance race*—An overnight race for which eligibility and weight to be carried is determined according to specified conditions which include age, sex, earnings and number of wins.

*Also eligible*—Pertains to:

(a) a number of eligible horses, properly entered, which were not drawn for inclusion in a race, but which become

eligible according to preference or lot if an entry is scratched prior to the scratch time deadline; or

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

*Arrears*—Includes moneys due for entrance forfeits, fees (including jockey's fees), forfeitures, subscriptions, stake, purchase money in claiming races and also a default in money incident to the rules.

*Arrest*—Refers to a criminal matter in which the applicant has been indicted, booked or otherwise charged and which is pending final disposition. A matter on which a final judgment or order has been entered should be reported under "conviction." (Reference should be made to the term "conviction" as set forth in this section.)

*Association grounds*—All real property utilized by the association in the conduct of its race meeting, including the race track, grandstand, concession stands, offices, barns, stable area, employee housing facilities and parking lots and any other areas under the jurisdiction of the Commission.

*Authorized agent*—A person appointed by a written instrument, signed and acknowledged before a notary public and filed in accordance with the rules, who is thereupon entitled to represent a licensed owner-principal. Authorization will be deemed unrestricted unless otherwise prepared in strict compliance with the provisions of this subpart.

*Betting interest*—One or more horses in a pari-mutuel contest which are identified by a single program number for wagering purposes.

*Bleeder*—A horse which has demonstrated evidence of exercise induced pulmonary hemorrhage.

*Bleeder List*—A tabulation of all bleeders to be maintained by the Commission.

*Breeder*—The owner of the horse's dam at the time of foaling.

*Claiming race*—A race in which any horse starting may be claimed (purchased for a designated amount) in conformance with the rules.

*Conditions*—Certain qualifications which determine a horse's eligibility to be entered in a race.

*Conviction*—A final judgment of guilt or criminal culpability in either juvenile or adult proceeding, whether arising from verdict, judgment or order of a Court or from a plea of guilty, of no contest or nolo contendere or other form of final disposition. Conviction does not include accelerated rehabilitative disposition adjudications (A.R.D.'s) or other similar forms of preindictment release where a final record of guilt or conviction will not follow.

*Corrupt practice*—Includes the Commission, the attempt to commit or the solicitation, inducing or attempt to induce a violation of a rule of racing or civil or criminal statute pertinent or relevant to racing by a person whether acting alone or in concert.

*Coupled entry*—Two or more contestants in a contest that are treated as a single betting interest for pari-mutuel wagering purposes (see also, *Entry*).

*Dead heat*—The finish of a race in which the noses of two or more horses reach the finish line at the same time.

*Declaration*—The act of withdrawing an entered horse from a race before the closing of overnight entries.

*Draw*—The process of assigning post positions and the process of selecting contestants in a manner to ensure compliance with the conditions of the rules of racing.

*Entry*—

(i) A horse eligible for and entered in a race.

(ii) Two or more horses which are entered and run in a race which have common ties of ownership, lease or training (see also, *Coupled entry*).

*Equipment*—As applied to a horse, shall mean whips, blinkers, tongue straps, muzzles, nosebands, bits, shadow rolls, martingales, breast plates, bandages, boots and plates.

*Flat race*—A race in which horses mounted by jockeys run over a course on which no jumps or other obstacles are placed.

*Forfeit*—Money due to a party because of an error, fault, neglect of duty, breach of contract or a penalty ordered by the Stewards or the Commission.

*Foul*—The term includes an infraction of the rules of racing involving physical conduct occurring during the actual running and course of a race.

*Furosemide (Lasix) List*—A listing of all horses eligible to participate in a race with furosemide in its system.

*Horse*—A Thoroughbred duly registered with the Jockey's Club and includes a 2-year-old, stallion, filly, mare, colt, gelding or ridgling.

*Inquiry*—An investigation by the Stewards of potential interference in a contest prior to declaring the result of said contest official.

*Jockey*—A race rider currently licensed, or permitted to ride, or both.

*Licensee*—A person or entity holding a form of license from the Commission who is exercising the powers, privileges or prerogatives of a licensee or who is acting in a manner as to apparently indicate they are entitled to hold or who should hold a license.

*Maiden*—A horse which at the time of starting has never won a race on the flat at a recognized meeting in any country. A maiden which has been finally disqualified after finishing first is thereafter still to be considered a maiden.

*Maiden race*—A contest restricted to nonwinners.

*Match race*—A race between two or more horses under conditions agreed to by their owners.

*Mutuel field*—Two or more contestants treated as a single betting interest for pari-mutuel wagering purposes because the number of betting interests exceeds the number that can be handled individually by the pari-mutuel system.

*Nomination*—The naming of a horse to a certain race or series of races generally accompanied by payment of a prescribed fee.

*Nominator*—A person in whose name a horse is entered for a race.

*Objection*—

(a) a written complaint made to the Stewards concerning a horse entered in a race and filed not later than one hour prior to the scheduled post time of the first race on the day in which the questioned horse is entered; or



(b) a claim of foul in a race lodged with the Stewards or their designee by the horse's jockey, trainer, or owner before the race is declared official.

*Official Starter*—The official responsible for dispatching the horses for a race.

*Off time*—The moment at which, on the signal of the official Starter, the doors of the starting gate are opened, officially dispatching the horses in each contest.

*Optional claiming race*—A race restricted to horses who have started previously for a designated claiming price or less, whose owner or trainer may, at his discretion, enter the horse to be claimed. In the case of horses entered to be claimed in a race, the race will be considered for the purposes of these rules, a claiming race.

*Overnight race*—A contest for which entries close at a time set by the racing secretary; also known as Purse Race.

*Owner*—Includes the sole owner, a part owner, a holder of any beneficial or equitable interest present, reversionary or expectant interest or the lessee of a horse. An interest only in the winnings of a horse does not constitute part ownership.

*Paddock*—An enclosure in which horses scheduled to compete in a contest are saddled prior to racing.

*Place*—First, second or third in the order of finish of a race and are referred to, respectively, as "win," "place" and "show."

*Post*—The place on the course from which a race is designated to start.

*Post position*—The position assigned to a horse at the starting line of the race.

*Post time*—The time set for the arrival at the starting point of the horses in a race. It shall be posted a reasonable time prior to the race on a clock device, provided for that purpose, prominently displayed before and clearly visible from the grandstand. The post time of each race shall be set by the pari-mutuel department manager and shall not be changed after being posted without permission of the Stewards.

*Protest*—A formal complaint filed after a race with the Stewards in accordance with the rules, protesting the right of any horse to a place, purse, award or entitlement in a race or protesting or excepting to a decision relating to eligibility, participation or placing of a horse in a race.

*Race day*—A day during which racing is authorized and conducted.

*Racing official*—The term as used in this chapter shall include, but not be limited to: Stewards, placing Judges and patrol Judges, the clerk of scales, a horse identifier, a Starter, a paddock Judge, a racing secretary, an assistant racing secretary, the handicapper, a timer, horsemen's bookkeeper, Commission Veterinarian, track veterinarian, a mutuel manager, a chief of security and any other person designated by the Commission.

*Recognized meeting, authorized meeting or race meeting*—Includes the entire period of time designated by the Commission for the conduct of pari-mutuel racing activities by a licensed association. Meetings of a given association or of several associations may be split or joined as shall be determined and authorized by the Commission.

*Rules*—The rules and regulations adopted by the Commission that are in effect at a given time together with additions and modifications thereto.

*Scratch*—The act of withdrawing an entered horse from a contest after the closing of entries.

*Scratch time*—The deadline for withdrawal of entries from a scheduled performance.

*Stakes race*—A contest in which nomination, entry and/or starting fees contribute to the purse. Special designations or classifications for stakes races as "Graded Stakes" or "Black Type" shall be determined by the appropriate breed registries or recognized authorities.

*Starter*—A horse which becomes an actual contestant in a race by virtue of the starting gate opening in front of it upon dispatch by the official Starter.

*Steward*—The duly appointed Commission racing official with powers and duties to serve at each horse race meeting conducted by a licensed racing entity as specified by statute or regulation.

*Subscription*—The act of nomination or entry of a horse to a stakes race.

*Walkover*—Occurs when one and only one of the owners who has nominated for a race qualifies a horse to start. When only one horse or interest has qualified to start in a race, that horse shall be ridden past the Judge's Stand and go to the post and shall then be deemed the winner. It shall receive entrance fees, forfeit, but no portion of a purse, stake, or added money or another prize.

*Weigh in*—The presentation of a jockey to the clerk of scales for weighing after a race.

*Weigh out*—The presentation of a jockey to the clerk of scales for weighing prior to a race.

*Weight for age*—Standard weight according to the scale set forth in the rules or regulations, regardless of weight penalties or allowances.

*Winner*—The horse whose nose reaches the finish line first or is placed first through disqualification by the Stewards.

**CHAPTER 303. LICENSING, DUTIES AND RESPONSIBILITIES OF THOROUGHBRED OCCUPATIONAL LICENSEES—TEMPORARY REGULATIONS**

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**§ 303.1. Thoroughbred license categories.**

(a) Thoroughbred license categories shall include the following and others as may be established by the Commission in its discretion:

(1) Racing participants and personnel (including owner, authorized agent, trainer, assistant trainer, jockey, apprentice jockey, jockey agent, exercise rider, pony rider, veterinarian, veterinary assistant, Farrier and stable employees);

(2) Thoroughbred racing officials (including Steward, racing secretary, Starter, horsemen's bookkeeper, timer/clocker, clerk of scales, jockey room custodian, paddock Judge, patrol Judge, placing Judge, Commission Veterinarian, racetrack veterinarian and horse identifier);

(3) Persons employed by the licensed racing entity, by a racing vendor or any other person whose employment at the racetrack enclosure requires their presence in a restricted area, or which requires their presence anywhere on racetrack grounds while pari-mutuel wagering is being conducted; and

(b) Persons required to be licensed shall submit a completed application on forms furnished by the Commission and accompanied by the required fee as set forth in Chapter 185 (relating to occupational licenses—temporary regulations). Persons may also be required to provide proof of identity and proper employment authorization.

(c) License applicants may be required to furnish to the Commission a set of fingerprints and a recent photograph and may be required to be re-fingerprinted or re-photographed periodically as determined by the Commission.

**§ 303.2. Knowledge of rules.**

A licensee shall be knowledgeable of the rules and regulations of the Commission and by acceptance of a license issued under Chapter 185 (relating to occupational licenses—temporary regulations) agrees to abide by these rules.

**§ 303.3. License presentation.**

When requested by Commission personnel or licensed racetrack security, a person shall present an appropriate license to enter a restricted area. A license may only be used by the person to whom it is issued. The licensed racing entity, in consultation with the Commission, may establish procedures and protocols for the visible display of a license while in the racetrack enclosure, including the restricted area.

**§ 303.4. Visitor's pass.**

Track security may authorize unlicensed persons temporary access to restricted areas. These 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. This authorization or credential may only be used by the person to whom it is issued.

**SAFETY EQUIPMENT****§ 303.5. Helmets and vests.**

(a) Any person mounted on a horse or stable pony while on the licensed racetrack or association grounds must wear a protective safety helmet securely fastened under the chin 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:

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

(b) 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:

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

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

(d) 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 by the Commission may be originally designed and constructed to provide a secure secondary attachment to the bit that is secured to a reinforcement material to prevent failure due to breakage of the rein, or breakage or inadvertent loss of the primary connection to the bit.

(e) The Commission, by written notice to the regulated community and by Order published in the *Pennsylvania Bulletin*, may amend, modify or update the previously stated required minimum standards for helmets and vests.

(f) Failure of the previously stated persons to adhere to the previously stated safety helmet and safety vests provisions may subject the person to the following penalties:

- (1) First offense—a written warning;
- (2) Second offense—\$50 fine;
- (3) Third or subsequent offense—\$250 fine or suspension, or both, at the discretion of the Stewards.

**OWNERS**

**§ 303.6. Licensing requirements for owners.**

(a) Each person who has a 5% or more ownership or beneficial interest in a horse is required to be licensed.

(b) An applicant for an owner’s license shall own or lease a horse which is eligible to race, registered with the racing secretary and under the care of a trainer licensed by the Commission. An owner shall notify the Stewards of a change in trainer of his/her horse. A horse shall not be transferred to a new trainer after entry.

(c) Notwithstanding § 185.6 (relating to age requirement) of the Commission’s regulations, a horse owner of any age may apply for an owner’s license. If younger than 18 years of age, an applicant for an owner’s license shall submit a notarized affidavit from the applicant’s parent or legal guardian stating that the parent or legal guardian assumes responsibility for the applicant’s financial, contractual and other obligations relating to the applicant’s participation in racing.

(d) Each licensed owner is responsible for disclosure to the Commission or its designee of the true and entire ownership of each of the owner’s horses registered with the racing secretary. Any change in ownership or trainer of a horse registered with the racing secretary shall be approved by the Stewards. Each owner shall comply with all licensing requirements set forth in Chapter 185 (relating to occupational licenses—temporary regulations).

(e) The Commission or its designee may refuse, deny, suspend or revoke an owner’s license for the spouse or member of the immediate family or household of a person ineligible to be licensed as an owner, unless the applicant or licensed owner demonstrate and the Commission concludes that participation in racing will not permit a person to serve as a substitute for an ineligible person. The transfer of a horse to a spouse, member of the immediate family or household solely to circumvent the ineligible status of the owner of the horse is prohibited.

**§ 303.7. Licensing requirements for multiple owners.**

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

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

(c) Each partnership, corporation, limited liability company, syndicate or other association or entity which includes an owner with less than a 5% ownership or beneficial interest shall file with the Commission an affidavit which attests that, to the best of their knowledge, every owner, regardless of their ownership or beneficial interest, is not presently ineligible for licensing or suspended in any racing jurisdiction.

(d) Application for joint ownership shall include a designation of a managing owner and a business address. Receipt of any correspondence, notices, or orders from the Commission at the address shall constitute official notice to all persons involved in the ownership of the horse. The written appointment of a managing owner or authorized agent shall be filed with the Commission.

**§ 303.8. Lease agreements.**

A horse may be raced under lease provided a completed breed registry or other lease form acceptable to the Commission is attached to the certificate of registration and on file with the Commission. The lessor and lessee shall be licensed as horse owners.

**§ 303.9. Stable name registration.**

Licensed owners and lessees may adopt a stable name subject to the approval of the Commission.

(1) The applicant shall identify all persons using the stable name. Any changes shall be reported immediately to the Commission.

(2) A person who has registered a stable name may cancel it upon written notice to the Commission.

(3) A stable name may be changed by registering a new stable name.

(4) A stable name which has been registered by any other person will not be approved by the Commission.

(5) A stable name shall be clearly distinguishable from other registered stable names.

(6) The stable name or the name of the owner shall be published in the program. If the stable name consists of more than one person, the program shall list the name of the managing owner along with the phrase “et al.”

(7) All persons using a stable name shall comply with all rules regarding licensing of owners.

**§ 303.10. Racing colors.**

(a) Owners or trainers shall provide racing colors which may be subject to the approval of the Commission, unless the colors are furnished by the licensed racing entity. Racing colors shall be registered with the racing secretary. The Stewards may authorize a temporary substitution of racing colors when necessary.

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

**§ 303.11. Transfer of ownership.**

Once a horse has been registered with The Jockey Club or a similar registration entity, the horse may not be transferred to a new owner, unless claimed, without permission of a Board of Stewards who may require a bona fide bill of sale signed by both buyer(s) and sellers(s) and the transfer of ownership must be timely reported to The Jockey Club or a similar registration entity.

**TRAINERS**

**§ 303.12. Eligibility.**

(a) In addition to the general licensing requirements set forth in Chapter 185 (relating to occupational licenses—temporary regulations), an applicant for a license as a thoroughbred trainer shall comply with the following:

- (1) Be at least 18 years of age;
- (2) If not previously licensed as a trainer, the applicant must provide evidence of:



(i) At least 2 years of experience as a licensed assistant trainer, or comparable experience in other equine disciplines, or college-level education in equine science and/or horsemanship;

(ii) Submission of two written statements from trainers currently licensed in this Commonwealth or other jurisdiction as to the applicant's character and qualifications and one written statement from a currently licensed owner stating intent to place one or more horses with the applicant, when licensed; and

(iii) Shall be required to pass a written examination, oral interviews with the Stewards and the Commission Veterinarian and demonstrate practical skills.

(b) A trainer licensed and in good standing in another jurisdiction, having been issued within a prior period as determined by the Commission, may be accepted if evidence of experience and qualifications are provided to the Stewards. Evidence of qualifications, as determined by the Stewards, shall require passing one or more of the following:

- (1) A written examination;
- (2) A demonstration of practical skills; or
- (3) An interview with the Stewards.

(c) Upon timely request to the Stewards due to disability or other factors affecting the applicant's ability to effectively complete the trainer's test (for example, illiteracy or language barriers), reasonable accommodations may be made for the applicant including, but not limited to oral administration of the examination, use of a pre-approved translator, and aid from pre-approved assistant where deemed appropriate by the Stewards administering the examination.

(d) If established or adopted by the Commission, as an ongoing condition of licensure, trainers shall be required to attend continuing education classes or programs specifically designed for trainers.

**§ 303.13. Trainer responsibility rule.**

(a) The trainer is responsible for the condition of the horse entered in an official workout or race and is charged with the responsibility to guard and protect the horse at all times regardless of the trainer's location. The trainer shall be responsible for the presence of any prohibited drug, medication, agent or other substance, including permitted medications in excess of the maximum allowable level, in these horses. A positive test for a prohibited drug, medication or substance, including permitted medication in excess of the maximum allowable level, as reported by a Commission-approved laboratory, is prima facie evidence of a violation of this rule. In the absence of substantial evidence to the contrary, the trainer shall be responsible.

(b) A trainer shall prevent the administration, attempted administration or passive contamination by others, including the trainers' employees and assistants who have care, custody and control of the horse from any drug, medication, or other prohibited substance that may cause a violation of these rules.

(c) A trainer shall immediately report to the Stewards and the Commission Veterinarian if the trainer knows, or has cause to believe, that a horse in the trainer's care, custody or control has received any prohibited drugs or medications.

**§ 303.14. Responsibilities of trainers.**

(a) A licensed trainer may represent the owner in the matter of entries, declarations and the employment of

jockeys. A licensed trainer may not have an interest, whether by ownership or lease, in a horse of which he is not the trainer at a race meeting at which the trainer is operating as a licensed trainer.

(b) A trainer who represents or files an application for an unlicensed owner shall file with the Commission an affidavit certifying that the trainer will secure a license for the owner within 30 days. The trainer or owner shall be jointly responsible for ensuring the timely and accurate filing of the owner's application. Failure of either to properly secure a license for the owner, may subject both the owner and trainer to a sanction or penalty.

(c) When a trainer is to be absent from the trainer's stable or the grounds where the trainer's horses are racing for a period of more than 2 days and horses are entered or are to be entered, the trainer shall provide a licensed trainer to assume the complete responsibility of the horses entered to run or running. The licensed trainer shall sign in the presence of the Stewards a form furnished by the Commission accepting complete responsibility for the horses being entered and running. This section does not apply to trainers having in their employ a licensed assistant trainer.

(d) A trainer may not enter or start a horse that:

- (1) Is not in serviceable, sound racing condition.
- (2) Has its median, volar or plantar nerves either blocked or removed. The horse is not permitted to race on Commonwealth tracks. A horse which has been nerved below the fetlock (digital nerves) may be permitted to start.
- (3) The trainer knows or has reason to know that the horse has been given, either internally or externally, a stimulant, depressant, hypnotic, narcotic drug or other medication prior to the race.
- (4) Is on the Stewards' List, Starter's List or Veterinarian's List in any racing jurisdiction.

**§ 303.15. Other duties and responsibilities of trainers.**

In addition to the duties and responsibilities set forth in §§ 303.13 and 303.14 (relating to trainer responsibility rule; and responsibilities of trainers), a trainer shall also be responsible for:

- (1) The condition and contents of stalls, tack rooms, feed rooms, sleeping rooms and other areas which have been assigned by the association;
- (2) Maintaining the assigned stable area in a clean, neat and sanitary condition at all times;
- (3) Ensuring that fire prevention rules are strictly observed in the assigned stable area;
- (4) Providing a list to the Commission of the trainer's employees on association grounds and any other area under the jurisdiction of the Commission. The list shall include each employee's name, occupation, social security number and occupational license number. The Commission shall be notified by the trainer, in writing, within 24 hours of any change;
- (5) Ensuring the adequate care, custody, condition, fitness, health, safety and security of horses under his/her care, custody, and control;
- (6) Disclosing the true and entire ownership of each horse the trainer's care, custody or control. Any change in ownership shall be reported immediately to, and approved by, the Stewards and recorded by the racing secretary;

(7) Training all horses owned wholly or in part by the trainer which are participating at the race meeting;

(8) Registering with the racing secretary each horse in the trainer's charge within 24 hours of the horse's arrival on the licensed racetrack facility grounds;

(9) Ensuring that, at the time of arrival at a licensed racetrack, each horse in the trainer's care, custody or control is accompanied by a valid health certificate (Coggins) which shall be filed with the racing secretary;

(10) Immediately reporting the alteration of the sex of a horse in the trainer's care to the horse identifier and the racing secretary, whose office shall note the alteration on the certificate of registration;

(11) Promptly reporting to the racing secretary and the Commission Veterinarian any horse on which a posterior digital neurectomy (heel nerving) is performed and ensuring that the fact is designated on its certificate of registration;

(12) Promptly notifying the Commission Veterinarian of any suspected or actual knowledge of a reportable disease and any unusual incidence of a communicable illness in any horse in the trainer's care;

(13) Promptly reporting the death of any horse in his/her care on association grounds to the Stewards and the Commission Veterinarian and compliance with the rules and regulations governing post-mortem examinations;

(14) Representing an owner in making entries and scratches and in all other matters pertaining to racing;

(15) Horses entered as to eligibility and weight or other allowances claimed;

(16) Ensuring the fitness of a horse to perform creditably at the distance entered;

(17) For having the entered horse standing by and ready for the Pre-Race Veterinary Examination (racing soundness examination) to be conducted by the Commission Veterinarian or designee. The trainer shall have all bandages, blankets and muzzles of and horse's legs clean and free of substances, sweats or leg medications;

(18) For participating and assisting the Commission Veterinarian with pre-race examination tasks, including the safe restraint of the horse, tattoo identification or jogging the horse as requested. Failure by the trainer or assistant trainer to comply with the direction, request or requirement issued by the Commission Veterinarian during the course of a pre-race examination shall result in the horse being scratched from the race and disciplinary action being taken against the trainer;

(19) Ensuring that the trainer's horses are properly shod, bandaged and properly equipped 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;

(20) Presenting the trainer's 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 and personally attending to the horse in the paddock and supervising the saddling thereof, unless excused by the Stewards;

(21) Instructing the jockey to give the jockey's best effort during a race and that each horse shall be ridden to win;

(22) Attending the collection of post-race urine and blood samples from the horse in the trainer's charge or delegating a licensed employee or the owner of the horse to do so; and

(23) Notifying horse owners upon the revocation or suspension of the trainer's license. A trainer whose license has been suspended or whose 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 the horses to the care of another licensed trainer, and upon the approved transfer, the horses may be entered to race. Upon transfer of the horses, the inactive trainer shall not be involved in any arrangements related to the care, custody or control of the horses and shall not benefit financially or in any other way from the training of the horses.

**§ 303.16. Trainer treatment records.**

(a) A trainer shall accurately document and maintain a record or log of all trainer treatments for every horse in the trainer's care, custody or control. Each treatment by the trainer shall be recorded within 24 hours of administration. The trainer treatment log shall be maintained electronically or on paper.

(1) Treatment, for the purposes of this section, means any medication or procedure containing a medication administered to a horse by a licensed trainer or the trainer's designee.

(2) Treatment, for the purposes of this section, specifically excludes medications or procedures administered by a veterinarian licensed by the Commission.

(3) This section includes the administration of medications that are prescribed by a veterinarian but administered by the trainer or his or her designee.

(4) This section also includes those treatments that are administered by a veterinarian not licensed by the Commission.

(b) Trainer treatment records or log as required in subsection (a) must include the following information:

(1) The name of the horse (or, if unnamed, the registered name of the dam and year of foaling);

(2) The generic name of the drug (for example, phenylbutazone, methocarbamol);

(3) The name and address of the prescribing veterinarian;

(4) The brand name of the drug if a non-generic is used;

(5) The date of the treatment;

(6) The route and method of administration;

(7) The dosage administered;

(8) The approximate time (to the nearest hour) of each treatment;

(9) The first and last name of the individual that administered the treatment; and

(10) The treating veterinarian shall sign or initial the trainer's treatment log on the first day a horse receives a prescription medication.

(c) The trainer's treatment records or log shall be made available for inspection upon a request by the Commission at any time. Failure to provide accurate and complete trainer treatment records shall result in disciplinary action.

(d) Copies of trainer treatment records must be maintained for at least 6 months.

**§ 303.17. Corticosteroid and intra-articular injection reporting requirements.**

(a) Trainers or their designees shall accurately keep and maintain complete records of all corticosteroid and intra-articular injections for all horses in the trainer's care, custody or control. Complete corticosteroid and intra-articular injection reports shall include:

- (1) The date of the injection;
- (2) The name of the veterinarian performing the injection;
- (3) The articular space(s) or structure(s) injected;
- (4) The medication or biologicals used to inject each articular space; and
- (5) The dose in milligrams of each corticosteroid used.

(b) This information shall be maintained for a minimum of 6 months to facilitate compliance with this regulation. If a horse is successfully claimed by a new owner, the trainer of record at the time of that claiming race must provide that horse's complete corticosteroid and intra-articular injection report for the previous 6 months.

(c) The above reports shall be maintained in whatever format the trainer elects. However, if the Commission requests a copy of the report, it must be provided in electronic form.

(d) The report must be provided to the new trainer within 48 hours of the transfer of the horse. The previous trainer or the trainer's designee shall notify the Commission Veterinarian when the records have been provided to the new trainer.

(e) Submission of the report and 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.

(f) Failure of the trainer to provide the reports as required shall result in disciplinary action.

**§ 303.18. Restrictions on wagering.**

A trainer shall only be allowed to wager on the trainer's horse or entries to win or to finish first in combination with other horses.

**§ 303.19. Assistant trainers.**

(a) A trainer may employ an assistant trainer as approved by the Stewards. The trainer shall notify the racing secretary of the use of an assistant trainer. The assistant trainer shall be duly licensed prior to acting in the capacity on behalf of the trainer. Qualifications for obtaining an assistant trainer's license shall be prescribed by the Stewards and the Commission and may include those requirements prescribed in this chapter.

(b) An assistant trainer may substitute for and shall assume the same duties, responsibilities and restrictions as imposed on the licensed trainer. In which case, the trainer shall be jointly responsible for the assistant trainer's compliance with the rules governing racing.

(c) An assistant trainer shall not enter a horse owned in whole or in part by the assistant trainer or compete against the trainer's horses in a race while employed by the trainer.

**§ 303.20. Substitute trainer.**

(a) A trainer, who is absent for more than 2 days from their duties and responsibilities as a licensed trainer or

on a day in which the trainer has a horse in a race, shall obtain another licensed trainer to substitute.

(b) A substitute trainer shall accept full responsibility for the horses in writing and must be approved by the Stewards.

(c) A substitute trainer and the absent trainer shall be jointly responsible as absolute insurers of the condition of their horses entered in an official workout or race under § 303.13 (relating to trainer responsibility rule of these regulations).

**§ 303.21. Owners authorized agents.**

(a) A person undertaking or purporting to act as an authorized agent of an owner shall apply and secure a license from the Commission prior to the representation. An application for an authorized agent license shall be filed for each owner represented.

(b) A written instrument signed by the owner shall accompany the application and shall clearly set forth the delegated powers of the authorized agent. The owner's signature on the written instrument shall be acknowledged before a notary public.

(c) If the written instrument is a power of attorney it shall be filed with the Commission and attached to the regular application form.

(d) Any changes shall be made in writing and filed as set forth above.

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

**§ 303.22. Powers and duties of an authorized agent.**

(a) A licensed authorized agent may perform on behalf of the licensed owner-principal all acts as relate to racing, as specified in the agency appointment, that could be performed by the principal if the principal were present.

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

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

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

**JOCKEY LICENSE**

**§ 303.31. Eligibility for licensure.**

(a) No person may participate in racing as a jockey unless and until duly licensed by the Commission in accordance the Commission's regulations and procedures, including the provisions of Chapter 305 (relating to rules of Thoroughbred racing—temporary regulations).

(b) No person under 18 years of age shall be licensed by the Commission as a jockey, except persons who have been licensed by this Commission prior to the date of adoption of this rule.

(c) An applicant shall show competence by prior licensing and the demonstration of the jockey's riding ability, which may include participation in up to five races with



the prior approval of the Stewards. The demonstration of riding ability includes at a minimum:

- (1) Breaking with a horse in company from the starting gate;
  - (2) Working a horse in company around the turn and down the stretch;
  - (3) Switching the riding crop from one hand to the other while maintaining control of the horse in a stretch drive;
  - (4) Causing a horse to switch leads coming out of the turn.
- (d) A jockey shall not be an owner or trainer of any horse competing at the race meeting where the jockey is riding.

(e) A person whose weight exceeds 130 pounds at the time of application shall not be licensed as a jockey.

(f) A jockey shall pass a physical examination given within the previous 12 months by a licensed physician affirming fitness to participate as a jockey and a baseline concussion test using the most current SCAT testing protocol, if required by Commission regulation or by a licensed racing entity in accordance with an adopted concussion protocol program. The results of the physical examination and the baseline test shall be provided by the jockey to the Commission. The Stewards may require that any jockey be reexamined and may refuse to allow any jockey to ride pending completion of the examinations.

**§ 303.32. Apprentice jockeys.**

(a) No person may participate in racing as an apprentice jockey unless and until duly certified as an apprentice by the Stewards in accordance the Commission's regulations and procedures, including the provisions of §§ 305.275—305.277 (relating to requirements for apprentice jockeys; apprentice jockey weight allowances in overnight races; and applications for extensions).

(b) No person under 18 years of age shall be licensed by the Commission as a jockey, except persons who have been licensed by this Commission prior to the date of adoption of this rule.

(c) An applicant may be prohibited from riding until the Stewards or the Commission has sufficient opportunity (not to exceed 14 days) to verify the applicant's previous riding experience.

(d) An applicant with an approved apprentice certificate may be licensed as an apprentice jockey. An apprentice certificate may be obtained from the Stewards on a form provided by the Commission. A person shall not receive more than one apprentice certificate. In case of emergencies, a copy of the original may be obtained from the racing jurisdiction where it was issued.

(e) An apprentice jockey may ride with a five-pound weight allowance beginning with the apprentice's first mount and for 1 full year from the date of the apprentice's fifth winning mount. If after riding 1 year from the date of the fifth winning mount, the apprentice jockey has failed to ride a total of forty winners from the date of the first winning mount, the apprentice may continue to ride with a five-pound weight allowance for 1 more year from the date of the fifth winning mount or until the apprentice has ridden forty winners, whichever comes first. Apprentice allowance may be waived with the Stewards' permission at the time of entry by the trainer or the trainer's designee.

(f) In accordance with the provisions of § 305.277 (relating to applications for extensions), the Stewards or the Commission may extend the time during which the apprentice weight allowance may be claimed, not to exceed the period of time the apprentice jockey was unable to ride (see, APPRENTICE JOCKEY EXTENSION FORM). The Commission will take jurisdiction only on certificates which it has issued. All other requests for extensions shall be directed to the racing authority or jurisdiction that approved the apprentice certificate.

**APPRENTICE JOCKEY EXTENSION FORM**

Date: \_\_\_\_\_

To: \_\_\_\_\_ (Name of Racing Commission)

I hereby request an extension of my apprentice allowance for the following reason(s):

- \_\_\_\_\_ physical disability or illness.
- \_\_\_\_\_ military service.
- \_\_\_\_\_ attendance in an institution of secondary or higher learning.
- \_\_\_\_\_ other reasons which would be acceptable to the Commission. (explain below)

My apprentice allowance expires on \_\_\_\_\_ (date)

My apprentice contract expires on \_\_\_\_\_ (date)

Incident occurred at \_\_\_\_\_ on \_\_\_\_\_ (Track and location) (date)

Name(s) of Steward(s) at track: \_\_\_\_\_

I was examined at the time by \_\_\_\_\_ on \_\_\_\_\_ (Name of physician) (date)

\_\_\_\_\_  
(Address of examining physician)

I was examined and declared fit to ride by \_\_\_\_\_ on \_\_\_\_\_  
(Name of physician) (date)

\_\_\_\_\_  
(Address of examining physician)

(Attached is a letter from my physician verifying above facts.)

Total number of calendar days I was unable to ride requested as an extension in this application \_\_\_\_\_

Name of contract holder at time of incident \_\_\_\_\_

Present contract holder, if other than above \_\_\_\_\_

Signed: \_\_\_\_\_  
(apprentice signature)

Note to applicant: No request will be considered by the Commission without a confirming report from your doctor. Be sure to secure letters from attending physicians stating nature and extent of injury, date, and the like, and names of Stewards presiding at meeting where you were injured.

### § 303.33. Jockey duties and responsibilities.

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

(b) A jockey shall not have a valet attendant except one provided and compensated by the licensed racing entity.

(c) No person other than the licensed contract employer or a licensed jockey agent, may make riding engagements for a rider, except that a jockey not represented by a jockey agent may make his own riding engagements.

(d) A jockey shall not have more than one jockey agent at a time.

(e) No revocation of a jockey agent's authority is effective until the jockey notifies the Stewards in writing of the revocation of the jockey agent's authority.

### § 303.34. Jockey agent eligibility.

(a) An applicant for a license as a jockey agent shall:

(1) provide written proof of agency with at least one jockey licensed by the Commission;

(2) demonstrate to the Stewards that he/she has a contract for agency with at least one jockey who has been licensed by the Commission; and

(3) be qualified, as determined by the Stewards or other Commission designee, by reason of experience, background and knowledge. A jockey agent's license from another jurisdiction may be accepted as evidence of experience and qualifications. Evidence of qualifications may require passing one or both of the following:

(i) a written examination or

(ii) an interview or oral examination.

(4) Applicants not previously licensed as a jockey agent shall be required to pass a written, oral examination, and if applicable, the Commission shall require evidence that the applicant has attended and completed a continuing education program for jockeys.

### § 303.35. Limit on contracts.

A jockey agent may serve as agent for no more than two jockeys and one apprentice jockey at a time.

### § 303.36. Responsibilities of agents.

(a) A jockey agent shall not make or assist in making engagements for a jockey other than those the agent is licensed to represent.

(b) A jockey agent shall file written proof of all agencies and changes of agencies with the Stewards.

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

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

### § 303.37. Prohibited areas.

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

### § 303.38. Agent withdrawal.

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

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

## FARRIERS

### § 303.51. Eligibility for a Farrier's license.

(a) The issuance of a Farrier's license shall be dependent upon the applicant satisfying the requirements set forth below. An applicant shall:

(1) Be at least 18 years of age; and

(2) Be qualified, by reason of experience, background and knowledge of horseshoeing, as determined by the Commission or its appointed testing organization.

(b) As evidence of qualifications and capabilities, applicants not previously licensed in any jurisdiction shall be required to pass one or more of the following:

(1) A written examination;

(2) An interview or oral examination; or

(3) A demonstration of practical skills in horseshoeing.

(c) The Farriers' license shall be issued for a term of 3 years.

(d) If a Farrier's license is terminated by action of the Commission or by failure to renew the license for a period of 7 years, the applicant must comply with the requirements of subsection (b).

**§ 303.52. Reciprocity with other states.**

A Farrier's or horseshoer's license, duly issued by and in good standing from another jurisdiction, shall be reciprocally accepted by the Commission or its testing organization as evidence of the Farrier's experience and qualifications for licensure in this Commonwealth. If requested by the Commission, the Farrier shall provide any necessary documentation from the licensing jurisdiction.

**§ 303.53. Commission appointed testing organization.**

The examination requirements, as set forth in § 303.51(b), may be conducted by the Commission or by an organization or entity duly appointed by the Commission, which has the appropriate knowledge and expertise. The appointed organization shall establish the standards, material, and scope of the written, oral and practical examinations and shall determine the satisfactory score for the written examination, as approved by the Commission.

**PRACTICING VETERINARIANS**

**§ 303.71. Eligibility for Commission license.**

An applicant for a license as a practicing veterinarian on the grounds of a licensed racing facility shall be qualified and licensed to practice veterinary medicine in this Commonwealth. An application for a practicing veterinarian license from the Commission must be accompanied by a copy of the applicant's current license to practice veterinary medicine and be otherwise qualified to be issued a license to participate in racing.

**§ 303.72. Duties and responsibilities.**

(a) All practicing veterinarians licensed by the Commission and authorized to access secure areas of the licensed racing facility and to participate in racing activities shall ensure the health and welfare of racehorses and shall safeguard the interests of the public and the participants in racing.

(b) It shall be the duty of every practicing veterinarian to adhere to the highest ethical and professional standards of veterinary practice. Any deviation from those standards shall be considered a violation of the rules of racing and may subject the practicing veterinarian to discipline by the Commission including fines, suspensions or revocation.

(c) All practicing veterinarians administering drugs, medications or other substances shall be responsible for ensuring that the drugs, medications or other substances and the veterinary treatment of horses are administered in accordance with rules in Subpart F (relating to foreign substances, medications, drugs and equine veterinary practices).

(d) All practicing veterinarians shall promptly notify the Commission Veterinarian of any reportable disease and any unusual incidence of a communicable illness in any horse in his/her charge.

**§ 303.73. Restrictions on wagering.**

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

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#### § 305.1. General provisions.

(a) The Commission shall annually approve each licensed racing entity employee whose duties include the enforcement of pari-mutuel racing and wagering activities which directly or indirectly affect the racing product. Compensation for a racetrack racing official shall be paid by the licensed racing entity.

(b) Racetrack racing officials shall enforce this chapter at all times and shall render regular written reports of the activities and conduct of the race meetings to the Commission, if requested by the Board of Stewards or the Commission.

(c) The Commission or its designee shall employ individuals who shall be designated as Commission racing officials and whose duties shall include the oversight and enforcement of the act, regulations and Commission policies related to pre-race and post-race activities, the conduct of live, simulcasted, electronic and pari-mutuel wagering activities and all licensees engaged in those racing activities.

(d) The purpose of this chapter is to define the duties and responsibilities of racing officials and the requirements, procedures and rules of racing.

#### § 305.2. Prohibited conduct by racing officials.

(a) A person may not offer and no racing official may accept, directly or indirectly, a gratuity, reward or favor in connection with racing at the meeting.

(b) A racing official may not, directly or indirectly, for a commission, gratuity or otherwise, sell, buy or hold for himself or for another a form of interest in a thoroughbred horse that is run or entered at a meeting where he is officiating.

(c) A racing official may not, directly or indirectly, buy, sell or hold an interest in a contract upon a jockey or apprentice jockey.

(d) A racing official may not write or solicit horse insurance at the meeting.

#### § 305.3. Conflict of interest.

A racing official may not participate in the supervision, regulation or review of a race in which either the racing official or a member of the racing official's family, or a business partner, agent, associate, employee or joint-venturer has participated or in which any of them has had an interest in the event there is an objection, protest, claim of foul or dispute raised with regard to the race.

#### § 305.4. Wagering forbidden.

A racing official may not wager, directly or indirectly or have a form of interest in a wager of money or other value on the result of a race at the meeting at which the racing official is employed.

### RACING OFFICIALS

#### § 305.11. Racing officials.

Officials at a race meeting may include the following:

- (1) Stewards;
- (2) Racing secretary;
- (3) Horsemen's bookkeeper;
- (4) Paddock Judge;
- (5) Horse identifier;
- (6) Clerk of scales;
- (7) Jockey room custodian;
- (8) Starter;
- (9) Timer/clocker;
- (10) Patrol Judge, absent video replay equipment;
- (11) Placing Judge;
- (12) Commission Veterinarian;
- (13) Racetrack veterinarian;
- (14) Any other person designated by the Commission as a racing official.

#### § 305.12. Eligibility.

To qualify as a racing official, the appointee shall, at a minimum be:

- (1) of good character and reputation;
- (2) experienced in flat racing;

(3) familiar with the duties of the position and with the Commission's rules of flat racing;

(4) mentally and physically able to perform the duties of the job; and

(5) in good standing and not under suspension or ineligible in any racing jurisdiction.

**§ 305.13. Approval and licensing.**

The Commission, in its sole discretion, may determine the eligibility of a racetrack or Commission racing official and, in its sole discretion, may approve or disapprove any official for licensing.

**§ 305.14. Prohibited practices.**

While serving in an official capacity, racing officials and their assistants shall not:

(1) participate in the sale or purchase, or ownership of any horse actively racing at the meeting;

(2) sell or solicit horse insurance on any horse racing at the meeting;

(3) be licensed in any other capacity without permission of the Commission, or in case of an emergency, the permission of the Stewards;

(4) wager on the outcome of any race under the jurisdiction of the Commission; or

(5) consume or be under the influence of alcohol or any prohibited substances while performing official duties at the meeting.

**§ 305.15. Reporting of violations.**

All racing officials and their assistants shall immediately report to the Stewards every observed or reported violation of these rules and of the laws of this Commonwealth governing racing.

**§ 305.16. Observations and notifications.**

A racing official shall immediately report to the Stewards any perceived issues with a horse based on the condition prior to the race which may significantly affect the running of the race. Upon notification to the Stewards, the Stewards may either conduct an immediate investigation or forward the matter to Commission investigators.

**§ 305.17. Appointment.**

(a) A person shall not be appointed to more than one racing official position at a meeting unless specifically approved by the Commission.

(b) The Commission, the Bureau Director or other Commission representative shall appoint or approve the Stewards at each race meeting.

**§ 305.18. Appointment of substitute officials.**

The licensed racing entity shall immediately notify the Stewards where an emergency vacancy exists among racetrack racing officials and shall fill the vacancy immediately. The appointment shall be reported to the Commission and shall be effective until the vacancy is filled in accordance with these rules.

**BOARD OF STEWARDS**

**§ 305.31. Accreditation of Stewards.**

(a) To qualify for appointment as a Steward, the appointee must meet the education and examination requirements necessary to be accredited by the Racing Officials Accreditation Program in association with the

Universities of Arizona and Louisville or any other similar accreditation program approved by the Commission.

(b) In addition to all of the above, the appointee must also meet the following racing experience requirements:

(1) Five years or more of experience as a licensee of a racing commission or other regulatory racing authority of the United States or Canada;

(2) Certified as a racing official in one or more of the following categories: patrol Judge, placing Judge, paddock Judge, clerk of scales, horse identifier, racing secretary or assistant racing secretary and Starter; and

(3) Be in good standing with all racing jurisdictions.

(c) Once appointed, the Stewards shall attend and complete applicable continuing education programs, as required by the Commission.

**§ 305.32. Power of the Stewards.**

(a) In matters pertaining to racing, the orders of the Stewards shall supersede the orders of the officers and directors of the association. The Stewards shall have the power and duty to regulate and supervise the conduct of track management, licensed personnel, racing officials, owners, trainers, jockeys, grooms and all other persons participating in pari-mutuel racing activities, unless the power and the duty is exclusively vested in the Commission.

(b) The authority of each Board of Stewards shall begin at least 10 days prior to the beginning of the race meeting and shall terminate with the completion of their business pertaining to the meeting. This period may be modified or altered as deemed necessary by the Commission. If a dispute is unresolved at the time, it may be heard later or disposed of by the Stewards or referred to the Commission. This section does not limit the power of a board to impose sanctions continuing beyond the end of a meeting.

(c) If there is a succeeding meeting approved to begin at the same racetrack, the power of the Board of Stewards at the meetings is deemed to be continuing and sustaining.

(d) In the performance of duty, the Stewards shall have reasonable control over and unrestricted access to stands, weighing rooms and jockey rooms, stables, barns and other areas of the racetrack enclosure.

(e) The Stewards shall have the power to determine questions arising with reference to entries and racing. They shall have the authority to resolve conflicts or disputes related to racing and to discipline violators in accordance with the provisions of these rules.

(f) The Stewards have the authority to interpret these rules and to decide all questions of racing not specifically covered by the rules, but which, in their opinion, may negatively impact the public interest or the public's perception of racing.

(g) The Stewards shall have the power to cause to be examined a horse stabled on the association grounds, or in a stabling area approved by the association.

(h) In accordance with the provisions of Chapter 179 (relating to Rules of Administrative Practice and Procedure—temporary regulations), the Stewards may compel the attendance of witnesses, the submission of documents or potential evidence related to any investigation or hearing and may administer oaths and examine witnesses.

(i) The Stewards may at any time inspect license documents, registration papers, and other documents related to racing.

(j) The Stewards shall consult with the official veterinarian to determine the nature and seriousness of a laboratory finding or an alleged medication violation.

**§ 305.33. Disciplinary action.**

(a) The Stewards shall take notice of alleged misconduct or rule violations and may initiate investigations into the matters through the Commission's investigative staff or matters may be referred to them for hearing. The Stewards shall have the express authority to charge any licensee for a violation of these rules, to conduct hearings and to impose disciplinary action in accordance with these rules.

(b) The Stewards may impose any of the following penalties on a licensee for a violation of these rules:

- (1) Issue a reprimand;
- (2) Impose a fine not to exceed the statutory amount set for in the act;
- (3) Require forfeiture or redistribution of purse or award;
- (4) Place a licensee on probation or a conditional license;
- (5) Suspend a license or racing privileges;
- (6) Revoke a license;
- (7) Order that a person be ineligible for licensing; or
- (8) Impose any other penalty as deemed necessary and appropriate for the level of violation.

(c) The Stewards may suspend a person or disqualify a horse for fixed periods of time or under other conditions they may deem appropriate or as may be specified by this chapter. If a person is indefinitely suspended or is ordered suspended for more than the balance of a meeting, the matters shall promptly be referred to the Commission for final disposition.

(d) The Stewards, on an emergency basis, shall have the power to exclude or eject from the racetrack premises and enclosures of the licensed racing entity any person who:

- (1) Is under an order of suspension or revocation or has been denied a license or ruled off by a racing commission or Board of Stewards.
- (2) Is known to be an objectionable or undesirable person or whose presence on the racetrack enclosure is deemed to be inconsistent with the best interests of racing.
- (3) Whose conduct is deemed improper.

(e) The Stewards' ruling shall not prevent the Commission from imposing a more severe penalty.

(f) The Stewards may refer any matter to the Commission and may include recommendations for disposition. The absence of a Stewards' referral shall not preclude Commission action in any matter.

(g) Purses, prizes, awards, and trophies shall be redistributed if the Stewards or Commission order a change in the official order of finish.

(h) All fines imposed by the Stewards shall be paid to the Commission within 10 days after the ruling is issued, unless otherwise directed by the Stewards.

(i) In addition to any penalties imposed upon any owner, trainer, veterinarian or other licensee as a result of a medication or drug positive, after notice and an appropriate hearing, the horse which tested positive for the prohibited substance, shall be placed on the Steward's List and shall be ineligible to participate in racing for the following period of time:

(1) Class 1 or Class 2 drugs (as set forth in the Association of Racing Commissioners International Uniform Classification guidelines) shall be ineligible to race for a period of 90 days from the date of the Stewards' ruling, unless the matter has been appealed to the Commission.

(2) Class 3 drugs or high blood gas (TCO2) readings shall be ineligible for a period of 30 days from the date of the Stewards' ruling unless the matter has been appealed to the Commission.

**§ 305.34. Stewards' presence.**

(a) Three Stewards shall be present and on duty in the Stewards' stand during the running of each race. During the race times, the Stewards shall remain in the stand, in the paddock or otherwise readily available to the participants at the meet.

(b) At least one of the Stewards shall be on duty within call of the racing secretary from the time of the opening of overnight entries each morning until after the time allowed for filing of protests or objections to entries or assignment of post positions.

(c) Should any Steward be absent at race time, and no approved alternate Steward be available, the remaining Stewards may appoint a qualified substitute for the absent Steward. If a substitute Steward is appointed, the Bureau Director and the licensed racing entity shall be notified by the Stewards.

**§ 305.35. Duties of Stewards.**

(a) The Stewards shall investigate promptly and render a decision in every protest, objection and complaint made to them. They shall maintain a record of all protests, objections and complaints. The Stewards shall file daily with the Commission a copy of each protest, objection or complaint and any related ruling.

(b) The Stewards shall prepare a daily report, on a form approved by the Commission, detailing their actions and observations made during each day's race program. The report shall include the following information as the name of the racetrack, the date, the weather and track-conditions, claims, inquiries and objections and any unusual circumstances or conditions. The report shall be signed by each Steward and be filed with the Commission not later than 24 hours after the end of each race day.

(c) The Presiding Steward shall maintain a detailed report of the Stewards' official activities. The log shall describe all questions, disputes, protests, complaints, or objections brought to the attention of the Stewards. Investigative materials and information or interviews conducted by the Stewards is confidential and shall be excluded from this log. The log shall be provided to the Commission upon its request.

(d) Not later than 7 days after the last day of a race meeting, the Presiding Steward shall submit to the Commission a written report regarding the race meeting. The report shall include:

- (1) The Stewards' observations and comments regarding the conduct of the race meeting and the overall conditions of the association grounds during the race meeting; and



(2) Any recommendations for improvement by the licensed racing entity or action by the Commission.

**§ 305.36. Stewards' List.**

(a) The Stewards shall maintain a Stewards' List of the horses which are ineligible to be entered in a race because of poor or inconsistent performance or behavior on the racetrack that endangers the health or safety of other participants in racing.

(b) The Stewards may place a horse on the Stewards' List when there exists a question as to the exact identification or ownership of said horse.

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

(d) A horse which has been placed on the Stewards' List because of questions as to the exact identification or ownership of the horse, may be removed from the Stewards' List when, in the opinion of the Stewards, proof of exact identification or ownership, or both, has been established.

(e) In addition to any penalties imposed upon any owner, trainer, veterinarian or other licensee as a result of a medication or drug positive, after notice and an appropriate hearing, the horse which tested positive for the prohibited substance, shall be placed on the Stewards' List and shall be ineligible to participate in racing for the following period of time:

(1) For Class 1 or Class 2 drugs (as set forth in the Association of Racing Commissioners International Uniform Classification guidelines) the horse shall be ineligible to race for a period of 90 days from the date of the Stewards' ruling, unless the matter has been appealed to the Commission.

(2) For Class 3 drugs or high blood gas (TCO2) readings the horse shall be ineligible for a period of 30 days from the date of the Stewards' ruling, unless the matter has been appealed to the Commission.

**RACING SECRETARY**

**§ 305.51. Duties of racing secretary.**

The racing secretary or the assistant racing secretary as an employee of the licensed racing entity shall be responsible for the programming of races during the race meeting, compiling and publishing condition books, assigning weights for handicap races, and shall receive all entries, subscriptions, declarations.

**§ 305.52. Foal, health and other eligibility certificates.**

(a) The racing secretary or designee approved by the Stewards shall be responsible for receiving, inspecting and maintaining the digital and paper foal and health certificates, Equine Infectious Anemia (Coggins or EIA) test certificates and other documents of eligibility for all horses competing at the track and stabled on the grounds.

(b) The racing secretary or designee approved by the Stewards shall record the alteration of the sex of a horse on the horse's foal certificate or report, or both, to the appropriate breed registry and past performance services.

(c) The racing secretary or designee approved by the Stewards shall record on a horse's registration certificate

when a posterior digital neurectomy (heel nerving) is performed on that horse or report to the appropriate breed registry.

(d) The racing secretary shall ensure that all horses entered to race are registered with The Jockey Club or a similar registration entity.

**§ 305.53. List of nerved horses.**

The racing secretary shall maintain a list of nerved horses which are on the racetrack grounds and shall make the list available for inspection by the Commission or its designee or by written request from other licensees participating in the race meeting.

**§ 305.54. List of bred fillies and mares.**

The racing secretary shall maintain a list of all fillies or mares on the racetrack grounds who have been covered by a stallion. The list shall also contain the name of the stallion to which each filly or mare was bred and shall be made available for inspection by other licensees participating in the race meeting.

**§ 305.55. Allocation of stalls.**

The racing secretary shall have the sole authority to assign stall applicants stabling as is deemed proper and maintain a record of arrivals and departures of all horses entering into and stabled on the racetrack grounds. No appeal to the Commission shall be available from a denial of stalls.

**§ 305.56. Conditions.**

(a) The racing secretary shall establish the conditions and eligibility for entering races and cause them to be published to owners, trainers, the Stewards and the Commission and be posted in the racing secretary's office. The racing secretary shall remain responsible for any errors occurring regarding a horse's eligibility and along with the licensed racing entity shall remediate the error if possible. No appeal shall be heard by the Commission regarding horse entries and conditions.

(b) For the purpose of establishing conditions, winnings shall be considered to include all moneys and prizes won up to the time of the start of a race. Winnings during the year shall be calculated by the racing secretary from the preceding January 1.

**§ 305.57. Eligibility.**

(a) When the Commission receives an official testing laboratory report of a positive test or overage for a winner of a race that requires a disqualification, change in the order of finish and redistribution of the purse, the horse in question shall maintain the win in past performance records and carry the penalty of a win when determining eligibility by the racing secretary for entry in a subsequent race. This horse's condition and eligibility shall remain in effect until the Stewards issue a ruling disqualifying the aforementioned horse and order the redistribution of the purse.

(b) The second-place horse shall not carry the win in past performance records nor shall the second-place horse carry the win in determining the eligibility for entry in a subsequent race until the Stewards issue a ruling disqualifying the winner, change the order of finish and order a redistribution of the purse.

(c) Should the aforementioned ruling be properly appealed, the disqualification, change in the order of finish and purse redistribution is stayed until a final adjudication and the winner must carry the win and the second-place horse is not penalized for the condition.

**§ 305.58. Listing of horses.**

The racing secretary shall examine all entry blanks and declarations to verify information as set forth therein and shall select the horses to start and the "also eligible" horses from the declarations in accordance with these rules.

**§ 305.59. Posting of entries.**

Post positions shall be determined publicly by lot in the presence of the racing secretary, assistant racing secretary, a Steward or designee and at least one trainer licensed by the Commission. Upon completion of the draw, the racing secretary shall post a list of entries in a conspicuous location in his/her office and make the list available to the media, if requested.

**§ 305.60. Daily racing program.**

The racing secretary shall publish the official daily racing program, ensuring the accuracy therein of the following information:

- (1) Sequence of races to be run and post time for the first race;
- (2) Purse, conditions and distance for each race, and current track record for the distance;
- (3) The name of licensed owners of each horse, indicated as leased, if applicable, and description of racing colors to be carried;
- (4) The name of the trainer and the name of the jockey named for each horse together with the weight to be carried;
- (5) The post position and saddle cloth number or designation for each horse if there is a variance with the saddle cloth designation;
- (6) Identification of each horse by name, color, sex, age, sire and dam;
- (7) A notice shall be included in the daily program that all jockeys will carry approximately 3 pounds more than the published weight to account for safety equipment (vest and helmet) that is not included in required weighing out procedures and that jockeys may weigh in with an additional 3 pounds for inclement weather gear when approved by the Stewards; and
- (8) Other information as may be requested by the licensed racing entity or the Commission.

**§ 305.61. Nominations and declarations.**

The racing secretary shall examine nominations and declarations and early closing events, late closing events and stakes events to verify the eligibility of all declarations and nominations and compile lists thereof for publication.

**§ 305.62. Stakes and Entrance Money Records.**

The racing secretary shall be caretaker of the permanent records of all stakes and shall verify that all entrance moneys due are paid prior to entry for races conducted at the meeting.

**§ 305.63. Inspection of licenses and other documents.**

The racing secretary shall have the right to inspect an owner's, trainer's or jockey's license, partnership papers, papers and documents with respect to a contract between a jockey and the jockey's employer, and papers relating to the appointment of authorized agents, jockey agents or the adoption of colors or to stable names.

**HORSEMEN'S BOOKKEEPER****§ 305.71. General authority.**

The horsemen's bookkeeper shall maintain the records and accounts and perform the duties described herein and maintain the other records and accounts and perform the other duties as the licensed racing entity and the Commission may prescribe.

**§ 305.72. Records.**

(a) All records of the horsemen's bookkeeper shall be kept separate and apart from the records of the licensed racing entity.

(1) The records shall include the name, mailing address, Social Security number or Federal tax identification number, and the jurisdiction or country of residence of each horse owner, trainer or jockey participating at the race meeting who has funds due or on deposit in the horsemen's account.

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

(3) All records of the horsemen's bookkeeper including records of accounts and moneys and funds kept on deposit are subject to inspection by the Regulatory Authority at any time.

(4) The horsemen's bookkeeper and the licensed racing entity are subject to disciplinary action by the Commission for any violations of or non-compliance with the provisions of this rule.

**§ 305.73. Moneys and funds on account.**

(a) All moneys and funds on account for the horsemen with the horsemen's bookkeeper shall be maintained as follows:

(1) Separate and apart from moneys and funds of the licensed racing entity or any other association or entity;

(2) In a trust or similar type of account designated as Horsemen's Trust Account; and

(3) In an account insured by the Federal Deposit and Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

(b) The horsemen's bookkeeper shall be bonded with proof of the bond submitted to the Commission upon request.

(c) The amount of purse money earned is credited in the currency of the jurisdiction in which the race was run. There shall be no appeal for any exchange rate loss at the time of transfer of funds from another jurisdiction.

**§ 305.74. Payment of purses.**

(a) The horsemen's bookkeeper shall receive, maintain and disburse the purses of each race and all stakes, entrance money, jockey fees, purchase money in claiming races, along with all applicable taxes and other moneys that properly come into the bookkeeper's possession in accordance with these regulations.

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

(c) The fact that purse money has been distributed prior to the issuance of a laboratory report shall not be

deemed a finding that no chemical substance has been administered, in violation of these rules, to the horse earning the purse money.

(d) The horsemen's bookkeeper shall disburse the purse of each race and all stakes, entrance money, jockey fees and purchase money in claiming races, along with all applicable taxes, upon request, within 48 hours of receipt of notification that all tests with respect to the races have cleared the drug testing laboratory or the split sample laboratory as reported by the Stewards or the Commission, except that minimum jockey mount fees may be disbursed prior to notification that the tests have cleared the testing laboratories.

(e) In the event a protest or appeal has been filed with the Stewards or the Commission, the horsemen's bookkeeper shall disburse the purse within 48 hours of receipt of the dismissal or a final non-appealable order disposing of the protest or appeal.

**PADDOCK JUDGE**

**§ 305.91. Duties of paddock Judge.**

(a) The paddock Judge shall at all times be in charge of the paddock and the entire saddling area and shall:

(1) Supervise the assembly of horses in the paddock no later than 15 minutes before the scheduled post time for each race;

(2) Maintain a written record of all equipment, inspect all equipment of each horse saddled and report any change in equipment to the Stewards;

(3) Insure that all horses are properly equipped with a type of safety reins that are approved by the Commission and are originally designed and constructed to insure a secure secondary connection to the bit and reinforcement to prevent breakage;

(4) Prohibit any change of equipment without the approval of the Stewards;

(5) Ensure that the saddling of all horses is orderly, open to public view, free from public interference, and that horses are mounted at the same time, and leave the paddock for the post in proper sequence;

(6) Supervise paddock schooling of all horses approved for this by the Stewards;

(7) Report to the Stewards any observed cruelty to a horse;

(8) Ensure that only properly authorized persons are permitted in the paddock and may exclude those unauthorized persons; and

(9) Report to the Stewards any unusual, irregular or illegal activities.

(b) The paddock Judge shall maintain a list of horses which shall not be entered in a race because of poor or inconsistent behavior in the paddock that endangers the health or safety of other participants in racing.

(1) At the end of each race day, the paddock Judge shall provide a copy of the List to the Stewards.

(2) To be removed from the paddock Judge's List, a horse must be schooled in the paddock and demonstrate to the satisfaction of the paddock Judge and the Stewards that the horse is capable of performing safely in the paddock.

**HORSE IDENTIFIER**

**§ 305.101. General authority and duties.**

(a) The Horse Identifier shall:

(1) When required, ensure the safekeeping of digital and paper registration certificates and racing permits for horses stabled or racing, or both, on licensed racing entity 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 without physically touching every starting horse 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.

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

**CLERK OF SCALES**

**§ 305.111. Duties.**

The clerk of scales or the assistant clerk of scales shall have the general authority and responsibility to:

(1) Verify the presence of all jockeys in the jockeys' room at the appointed time;

(2) Verify that all the 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, safety equipment, riding crops, 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 race 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 the employee.

**JOCKEY ROOM CUSTODIAN**

**§ 305.121. Duties of the jockey room custodian.**

The jockey room custodian shall be responsible to:

(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;

(7) Maintain segregated facilities for female jockeys and keep unauthorized individuals out of the female jockey area; and

(8) Report to the Stewards any unusual occurrences in the jockey room.

### STARTER

#### § 305.131. General authority and duties.

The Starter shall 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. The decision of the Starter as to the validity of a start shall be final. In performance of the Starter's duties, the starter may:

(1) 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;

(2) Ensure that at least one assistant Starter is available for each horse in a race;

(3) 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;

(4) 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

(5) Load horses into the gate in any order deemed necessary to ensure a safe and fair start.

#### § 305.132. Use of starting gate.

(a) A flat race shall be started out of a starting gate approved by the Commission. If the Starter or the Starter's assistant is unable, after reasonable efforts, to place a horse in its assigned position in the gate for a satisfactory start, or if a horse is fractious or unruly, the Starter may order the horse into a different gate position.

(b) If, after reaching the starting post, a horse is so badly injured as to make it impractical or impossible for him to run in the race, the Starter may, in the interest of saving time, excuse that horse, but shall notify the Stewards before the race starts. A horse so excused by the Starter shall be deemed excused by the Stewards.

#### § 305.133. Prohibited conduct.

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, except 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

(6) Accept or solicit any gratuity, gift or payment of any kind other than his/her regular salary, directly or indirectly, for services in starting a race.

#### § 305.134. Starter's List.

No horse shall be permitted to start in a race unless approval is given by the Starter. The Starter shall maintain a Starter's List of all horses which are ineligible to be entered in any race because of poor or inconsistent behavior or performance in the starting gate. The horse shall be refused entry until it has demonstrated to the Starter that it has been satisfactorily schooled in the gate and can be removed from the Starter's List. Schooling shall be under the direct supervision of the Starter.

#### § 305.135. Report violations.

The Starter and assistant Starter shall immediately report any false starts, impeded starts, unfair starts or any unauthorized activities to the Stewards.

### TIMER/CLOCKER

#### § 305.151. Duties of timers.

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

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

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

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

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

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

#### § 305.152. Duties of clockers.

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

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

(c) At the conclusion of training hours, the clocker shall deliver a copy of the list of workouts to the Stewards and the racing secretary.

### PATROL JUDGE

#### § 305.171. Powers and duties of patrol Judges.

The patrol Judge, when utilized, is responsible for observing the race and reporting information concerning the race to the Stewards. If the track's video replay system is deemed adequate, use of patrol Judges is optional.

**PLACING JUDGE**

**§ 305.191. Duties.**

The placing Judges shall determine the order of finish in a race as the horses pass the finish line, and with the approval of the Stewards, may display the results on the totalisator board.

**§ 305.192. Photo finish.**

(a) In the event the placing Judges or the Stewards request a photo of the finish, the photo finish sign shall be posted on the totalisator board.

(b) Following their review of the photo finish, the placing Judges shall determine the exact order of finish for all horses participating in the race, and shall immediately post the numbers of the first four finishers on the totalisator board.

(c) In the event a photo was requested, the placing Judges shall cause a photographic or digital print of said finish to be produced. The finish photograph or digital print shall, when needed, be used by the placing Judges as an aid in determining the correct order of finish.

(d) Upon determination of the correct order of finish of a race in which the placing Judges have utilized a photographic or digital print to determine the first four finishers, the placing Judges shall cause prints of said photograph or digital print to be displayed publicly on the on-track television monitors and be provided to simulcast outlets.

**§ 305.193. Dead heats.**

(a) In the event the placing Judges determine that two or more horses finished the race simultaneously and cannot be separated as to their order of finish, a dead heat shall be declared.

(b) In the event one or more of the first four finishers of a race are involved in a dead heat, the placing Judges shall post the dead heat sign on the totalisator board and cause the numbers of the horse or horses involved to blink on the totalisator board.

**COMMISSION VETERINARIAN**

**§ 305.201. Qualifications.**

(a) The Commission Veterinarian shall:

(1) Be employed by the Department as a Veterinary Medical Field Officer (VMFO) and appointed by the Commission to a racetrack under the jurisdiction of the Commission;

(2) Have graduated from an accredited veterinary school, be duly licensed by the Department of State to practice veterinary medicine within this Commonwealth and be properly licensed by the Commission as a Commission Veterinarian;

(3) Possess the necessary qualifications and experience to objectively and competently provide the regulatory duties described herein;

(4) Refuse employment or payment, directly or indirectly, from any horse owner or trainer of a horse racing or intending to race in this Commonwealth while employed as the Commission Veterinarian;

(5) Refrain from directly treating or prescribing for any horse under the Commission's jurisdiction, except in cases of extreme emergency, accident or injury;

(6) Have no employment history or business relationship prior to employment as the Commission Veterinarian

that could constitute a conflict of interest or impede in the performance of official duties.

(b) Each racetrack under the jurisdiction of the Commission shall have an adequate number of Commission Veterinarians, as determined by the Commission, necessary to perform all the duties and responsibilities, as set forth in these regulations. The Commission shall designate one of the Commission Veterinarians as the Chief Commission Veterinarian at that racetrack facility.

**§ 305.202. Duties and responsibilities of the Commission Veterinarian.**

(a) The Commission's Veterinarian, among other things, shall:

(1) Inform the Stewards that a horse has been deemed unsafe to race, or inhumane to allow to race and shall place that horse on the Veterinarian's List as set forth in § 305.203 (relating to Veterinarian's List);

(2) Conduct pre-race inspections (racing soundness examination) on all potential Starters on race day under the Pre-Race Examination Protocol as established and amended by the Commission. The examinations shall be conducted in or near the stall to which the horse is assigned;

(3) Inspect any horse when there is a question as to the physical condition of the horse regardless of the horse's entry status;

(4) Be present in the paddock during saddling and on the racetrack during the post parade;

(5) Recommend to the Stewards the scratching of any horse that is, in the opinion of the Commission Veterinarian, injured, ill, or otherwise unable to compete due to an apparent medical or health-related condition;

(6) Inspect any horse which appears in physical distress during the race or at the finish of the race; and shall make a report of the horse and the suspected cause of the distress to the Stewards;

(7) Maintain a continuing health and racing soundness record of each horse so examined;

(8) Be authorized, in an emergency scenario, to humanely destroy any horse deemed to be so seriously injured that it is in the best interests of the horse to so act;

(9) Report to the Commission the names of all horses humanely destroyed or which otherwise expire at the meeting and the reasons therefore;

(10) Maintain the Veterinarian's List of horses ineligible to race;

(11) Supervise and control the Test Barn and the procedures implemented therein;

(12) Supervise the taking of all specimens, including but not limited to saliva, blood, urine or any other bodily fluid taken from the horse for pre-race or post-race testing according to procedures approved by the Commission;

(13) Maintain the proper administrative safeguards to protect the chain of custody handling of all laboratory specimens to prevent tampering, confusion, or contamination and assure sample integrity;

(14) Have jurisdiction over the practicing licensed veterinarians within the racetrack enclosure for the purpose of these rules;

(15) Cooperate with the racetrack veterinarian, practicing licensed veterinarians and other regulatory agencies to take measures to control communicable or reportable equine diseases, or both.

**§ 305.203. Veterinarian's List.**

The Commission Veterinarian shall maintain a list to be known as the Veterinarian's List upon which the name of a horse which is considered unfit, unsound or not ready for racing shall be placed. The Veterinarian's List shall be binding on all licensed racetrack facilities and those participating in racing activities under the jurisdiction of the Commission. The Veterinarian's List shall be published in a format as required by the Commission. A horse placed on the Veterinarian's List shall be refused entry until the horse is shown to be fit, sound or ready to race.

**RACETRACK VETERINARIAN**

**§ 305.221. General authority and duties.**

(a) The racetrack track veterinarian may be present at the starting gate and may visually inspect each entrant. If, in the opinion of the racetrack veterinarian, prior to the starting gate dispatching the horses, a horse is not in condition to compete in that race, the racetrack veterinarian shall immediately notify the Stewards or the Commission Veterinarian of the horse's condition.

(b) The racetrack veterinarian shall be attendant on the Stewards and the racing secretary at scratch time each morning, and shall examine the horse that they request, and make reports to the racing officials as promptly as possible.

(c) The racetrack veterinarians shall be an employee of the licensed racing entity and shall:

- (1) Be directly responsible to the Commission Veterinarian;
- (2) Be a graduate veterinarian and be licensed to practice in this Commonwealth;
- (3) Be present at the starting gate until the horses are dispatched from the gate for the race;
- (4) Inspect any horse which appears in physical distress during the race or at the finish of the race; and shall report the horse together with a written opinion as to the cause of the distress to the Stewards and to the Commission Veterinarian;
- (5) Refrain from directly treating or prescribing for any horse scheduled to participate during his/her term of appointment at any recognized meeting except in cases of emergency, accident or injury;
- (6) Be authorized to humanely destroy any horse deemed to be so seriously injured that it is in the best interests of the horse to so act;
- (7) Perform any other veterinarian function deemed necessary and appropriate as directed by the Commission Veterinarian, the Commission or the racetrack's employer.

**§ 305.222. Outriders.**

(a) The Outriders shall make every effort to maintain the safety and orderly conduct of training and racing according to the rules, regulations and directives of the Commission, the Stewards and the licensed racing entity management.

(b) The Outriders shall report all unauthorized activities, unusual occurrences or potential rule violations to the Stewards.

(c) The Outriders shall, in cooperation with the Stewards, establish a plan to stop the running of a race should there be a loose horse, removal of starting gate malfunction or in case of any other on-track issue that endangers the safety of the participants and horses.

(d) The Outriders shall oversee and supervise all jockeys, exercise riders, pony persons and trainers when they are on the track. First-time applicants for these positions shall be observed and approved by the Outriders as a condition of licensure.

(e) The Outriders shall enforce the track and Commission regulations concerning the use of approved safety vests and protective helmets while riders are on the racetrack.

**ENTRIES AND NOMINATIONS**

**§ 305.231. Entries.**

(a) No horse shall be qualified to start in a race unless it has been properly entered and its owner, trainer, or their authorized designee have been licensed by the Commission, and evidence of workers compensation insurance carried by owners and trainers properly filed. A trainer may use the affidavit process to temporarily license an owner for purposes of entering a horse as provided for by the Commission. Overnight entries shall be made and completed 48 hours prior to the morning of the applicable race program.

(b) To compete in a race, a horse must be eligible at the time of starting that race. A horse disqualified in any jurisdiction or placed on the Stewards' List, Starters' List or Veterinarians' List in any jurisdiction is not allowed to be entered or to start in a race without permission of the Stewards. The racing secretary shall be responsible to verify and accurately determine the horse's eligibility at the time of entry.

**§ 305.232. Procedure.**

(a) Entries and nominations shall be made with the racing secretary and shall not be considered until received by the racing secretary, who shall maintain a record of time of receipt of them for a period of 1 year.

(b) An entry shall be in the name of the horse's licensed owner and made by the owner, trainer or a licensed designee of the owner or trainer.

(c) Races printed in the condition book shall have preference over substitute and extra races.

(d) An entry may initially be made by telephone with the racing secretary but must be immediately confirmed in writing or facsimile machine to the racing secretary.

(e) The person making an entry shall clearly designate the horse so entered.

(f) No alteration may be made in any entry after the closing of entries, but an error may be corrected with permission of the Stewards.

(g) No horse may be entered in more than one race at the same licensed racing facility to be run on the same day on which pari-mutuel wagering is conducted.

(h) Any permitted medication or approved change of equipment must be declared at time of entry.

**§ 305.233. Limitation as to spouses.**

No entry in any race shall be accepted for a horse owned wholly or in part by, or trained by, a person whose husband or wife is under license suspension at time of the entry, unless the non-suspended spouse can demonstrate, by horse records, financial documents and other business



records that they are duly licensed as a trainer by the Commission and maintain a separate business from the suspended spouse. The Stewards shall review the provided documentation.

**§ 305.234. Coupled entries.**

(a) The term “entry” means a horse made eligible to run in a race. When Starters in a race include two or more horses with common ownership, they shall be coupled as an entry. A wager on one horse in the entry shall be a wager on all horses in the entry. If one horse is scratched after betting has begun, the remaining horse shall run as a single betting entry.

(b) Horses owned wholly or in part by the same trainer, person or the spouse of the person shall be coupled and run as an entry.

(c) Starters in a race which include two horses of different ownership trained by the same person, or trained in the same stable shall not be coupled as an entry and shall constitute a separate wagering interest.

(d) No more than two horses having common ties through ownership or training may be entered in an overnight race. Under no circumstances may both horses of a coupled entry start to the exclusion of a single entry. When making a coupled entry, a preference for one of the horses must be made.

(e) The rules in subsections (a)—(d) may be waived by application and demonstration of proper cause to the racing secretary and the Stewards.

**§ 305.235. Nominations.**

(a) Any nominator to a stakes race may transfer or declare the nomination prior to closing.

(b) Joint nominations and entries may be made by any one of joint owners of a horse, and each owner shall be jointly and severally liable for all payments due.

(c) Death of a horse, or a mistake in its entry when the horse is eligible, does not release the nominator or transferee from liability for all stakes fees due. No fees paid in connection with a nomination to a stakes race that is run shall be refunded, except as otherwise stated in the conditions of a stakes race.

(d) Death of a nominator to a stakes race shall not render void any subscription, entry or right of entry. All rights, privileges and obligations shall be attached to the legal heirs of the decedent or the successor owner of the horse.

(e) When a horse is sold privately or at public auction or claimed, stakes engagements shall be transferred automatically to its new owner; except when the horse is transferred to a person whose license is suspended or who is otherwise unqualified to race or enter the horse, then the nomination shall be void as of the date of the transfer.

(f) All stakes fees paid toward a stakes race shall be allocated to the winner unless otherwise provided by the conditions for the race. If a stakes race is not run for any reason, all the nomination fees paid shall be refunded.

**§ 305.236. Closings.**

(a) Entries for purse races and nominations to stakes races shall close at the time designated by the licensed racing entity in previously published conditions for the races. This time may not be less than 48 hours prior to the time of the running of the races for which entry is being made. No entry, nomination or declaration shall be accepted after the closing time, except that in the event of

an emergency or if an overnight race fails to fill, the racing secretary may, with the approval of a Steward, extend the closing time.

(b) Except as otherwise provided in the conditions for a stakes race, the deadline for accepting nominations and declarations is midnight of the day of closing, provided they are received in time for compliance with every other condition of the race.

**§ 305.237. Number of Starters in a race.**

The maximum number of Starters in any race shall be limited to the number of starting positions afforded by the association starting gate and its extensions. The number of Starters may be further limited by the number of horses which, in the opinion of the Board of Stewards, after consultation with the horsemen’s group and the jockeys’ association, can be afforded a safe, fair and equal start. The decision of the Stewards is final and not appealable.

**§ 305.238. Split or divided races.**

In the event a race is cancelled or declared off, the licensed racing entity may split any overnight race for which post positions have not been drawn. Where an overnight race is split, forming two or more separate races, the racing secretary shall give notice of not less than 15 minutes before the races are closed to grant time for making additional entries to the split races.

**§ 305.239. Post positions.**

Post positions for all races shall be determined by lot and shall be publicly drawn in the presence of a Steward or Steward designee.

**§ 305.240. Also-eligible list.**

(a) If the number of entries for a race exceeds the number of horses permitted to start, the racing secretary may create and post an also-eligible list.

(b) If any horse is scratched from a race for which an also-eligible list was created, a replacement horse shall be drawn from the also-eligible list into the race in order of preference. If none is preferred, a horse shall be drawn into the race from the also-eligible list by lot.

(c) Any owner or trainer of a horse on the also-eligible list who does not wish to start the horse in the race shall so notify the racing secretary prior to scratch time for the race, thereby forfeiting any preference to which the horse may have been entitled.

(d) A horse which draws into a straightaway race from the also-eligible list shall start from the post position vacated by the scratched horse. In the event more than one horse is scratched, post positions of horses drawing in from the also-eligible list shall be determined by lot.

(e) A horse which draws into a non-straightaway race from the also-eligible list shall start from the outermost post position. In the event more than one horse is scratched, post positions of horses drawing in from the also-eligible list shall be determined by public lot.

**§ 305.241. Preferred list.**

The racing secretary shall maintain a list of entered horses eliminated from starting by a surplus of entries, and these horses shall constitute a preferred list and have preference. The preferred list shall be maintained and all rules governing the list shall be the sole responsibility of the racing secretary.

**§ 305.242. Declarations and scratches.**

(a) *Declaration.* A declaration is the act of withdrawing an entered horse from a race prior to the closing of

entries. The declaration of a horse before closing shall be made by the owner, trainer or their licensed designee in the form and manner prescribed in these rules.

(b) *Scratch*. A scratch is the act of withdrawing an entered horse from a contest after the closing of entries. The scratch of a horse after closing shall be made by the owner, trainer or their licensed designee, with permission from the Stewards. No horse may be scratched from an overnight race without the express approval of the Stewards.

(1) A horse may be scratched from a stakes race for any reason at any time up until 45 minutes prior to post time for that race.

(2) A horse which has been scratched, or excused from starting by the Stewards, because of a physical disability or sickness shall not be accepted until the horse has been released from the Veterinarian's List by the Commission Veterinarian.

(c) The declaration or scratch of a horse out of an engagement is irrevocable.

#### § 305.243. Ineligible horses.

(a) A horse is ineligible to start in a race within this Commonwealth if:

(1) It is not stabled on the grounds of the licensed racing entity 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 these requirements 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 to participate in this jurisdiction;

(7) The stakes or entrance money for the horse has not been paid, in accordance with the conditions of the race;

(8) 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;

(9) It is a first-time Starter and has not been approved to start by the Starter;

(10) It is owned in whole or in part by an undisclosed person or interest;

(11) It lacks sufficient official published workouts or race past performances;

(12) It has been entered in a stakes race and has subsequently been transferred with its engagements, unless the racing secretary has been notified prior to the start;

(13) It is subject to a lien which has not been approved by the Stewards and filed with the horsemen's bookkeeper;

(14) It is subject to a lease not filed with the Stewards;

(15) It is not in sound racing condition;

(16) It has had a surgical neurectomy performed on a heel nerve, which has not been approved by the Commission Veterinarian;

(17) It has been trachea tubed to artificially assist breathing;

(18) It has been blocked with alcohol or otherwise drugged or surgically denerved to desensitize the nerves above the ankle;

(19) It has impaired eyesight in both eyes;

(20) It is barred or suspended in any other recognized racing jurisdiction;

(21) It does not meet the eligibility conditions of the race;

(22) Its owner or lessor is in arrears for any stakes fees, except with approval of the racing secretary;

(23) Its owners, lessors or trainer have not completed the licensing or affidavit procedures as required by the Commission;

(24) It is by an unknown sire or out of an unknown mare;

(25) There is no current negative test certificate for Equine Infectious Anemia (Coggins or EIA) 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; or

(26) It has shoes (racing plates) which have toe grabs with a height greater than 2 millimeters (0.07874 inches), bends, jars, caulks, stickers or any other traction device on the front hooves while racing or training on all racing surfaces.

#### WEIGHTS, PENALTIES AND ALLOWANCES

##### § 305.251. Weight allowances.

(a) Weight allowance must be claimed at time of entry and shall not be waived after the posting of entries, except by consent of the Stewards.

(b) A horse shall start with only the allowance of weight to which it is entitled at time of starting, regardless of its allowance at time of entry.

(c) Horses not entitled to the first weight allowance in a race shall not be entitled to any subsequent allowance specified in the conditions.

(d) Claim of weight allowance to which a horse is not entitled shall not disqualify it unless protest is made in writing and lodged with the Stewards at least one hour before post time for that race.

(e) A horse shall not be given a weight allowance for failure to finish second or lower in any race.

(f) No horse shall receive allowance of weight nor be relieved extra weight for having been beaten in one or

more races, but this rule shall not prohibit maiden allowances or allowances to horses that have not won a race within a specified period or a race of a specified value.

(g) Except in handicap races which expressly provide otherwise, 2-year-old fillies shall be allowed 3 pounds, and fillies and mares, 3 years old and upward, shall be allowed 5 pounds before September 1 and 3 pounds thereafter in races where competing against male horses.

(h) All allowances are optional and may be waived at the time of entry by the trainer or the trainer's designee with the permission of the Stewards.

**§ 305.252. Weight penalties.**

(a) Weight penalties are obligatory.

(b) Weight allowance, including apprentice allowance, shall be claimed at time of overnight entry.

(c) Horses incurring weight penalties for a race shall not be entitled to any weight allowance for that race.

(d) No horse shall incur a weight penalty or be barred from any race for having been placed second or lower in any race.

(e) Penalties incurred and allowances due in steeplechase or hurdle races shall not apply to races on the flat, and vice versa.

(f) The reports, records and statistics as published by Daily Racing Form, Equibase or other recognized publications shall be considered official in determining eligibility, allowances and penalties, but may be corrected.

(g) For determining weight penalties and allowances for horses that have previously won or placed in Graded or Group races, penalties in the race conditions will only apply to Graded or Group races in Part 1 countries as recognized in the *International Catalogue Standards* (ICS) book.

**§ 305.253. Scale of weights.**

(a) With the exception of apprentice allowances, handicap races, 3-year-old horses entered to run in races against horses 4 years old and upwards, and the allowance provided in subsection (b) of this section, no jockey shall be assigned a weight of less than 118 pounds. For 3-year-old horses entered to run in races against horses 4 years old and upwards from January 1 through August 31, no jockey shall be assigned a weight of less than 116 pounds.

(b) Except in handicaps, fillies 2 years old shall be allowed 3 pounds, and fillies and mares 3 years old and upward shall be allowed 5 pounds before September 1, and 3 pounds thereafter in races where competing against horses of the opposite sex.

(c) A notice shall be included in the daily program that all jockeys will carry approximately 3 pounds more than the published weight to account for safety equipment (vest and helmet) that is not included in required weighing out procedures. Additionally, upon Stewards' approval, jockeys may weigh in with an additional 3 pounds for inclement weather gear.

**§ 305.254. Timed workouts.**

In addition to the provisions of § 305.243 (relating to ineligible horses), a horse which has not started for a period of 45 days or more is ineligible to race until it has completed a timed workout satisfactory to the Stewards.

A workout following the entry of a horse shall appear on the official daily racing program or electronically online in Equibase or a similar entity.

**§ 305.255. Identification.**

(a) The trainer or exercise rider shall bring each horse scheduled for an official workout to be identified by the clocker or clocker's assistant immediately prior to the workout.

(b) The horse shall be properly identified by its lip tattoo, unique implanted microchip (ISO 11784), freeze brand or other identification method approved by the breed registry and the Commission immediately prior to participating in an official timed workout.

(c) 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.

**§ 305.256. 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.

**§ 305.257. Restrictions.**

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

**RUNNING OF THE RACE**

**§ 305.271. Racing equipment.**

(a) All riding crops are subject to inspection and approval by the Stewards and the clerk of scales.

(1) Riding crops shall have a shaft and a flap and will be allowed in flat racing including training, only as follows:

- (i) Maximum weight of 8 ounces;
- (ii) Maximum length, including flap of 30 inches;
- (iii) Minimum diameter of the shaft of 3/8 inch; and
- (iv) Shaft contact area must be smooth, with no protrusions or raised surface, and covered by shock absorbing material that gives a compression factor of at least one-millimeter throughout its circumference.

(2) The flap is the only allowable attachment to the shaft and must meet these specifications:

- (i) Length beyond the end of the shaft a maximum of 1 inch;
- (ii) Width a minimum of 0.8 inch and a maximum of 1.6 inches;
- (iii) No reinforcements or additions beyond the end of the shaft;
- (iv) No binding within 7 inches of the end of the shaft; and
- (v) Shock absorbing characteristics similar to those the contact area of the shaft.

(b) No bridle shall exceed 2 pounds.

(c) A horse's tongue may be tied down with clean bandages, gauze or tongue strap.

(d) No licensee may add blinkers or cheek pieces to a horse's equipment or discontinue their use without the prior approval of the Starter, the paddock Judge, and the Stewards. Any request for a change must be stated at entry. Blinkers and cheek pieces may not be utilized at the same time.



(e) No licensee may change any equipment used on a horse since its last race in this Commonwealth without approval of the paddock Judge.

**§ 305.272. Racing numbers.**

(a) Each horse shall carry a conspicuous saddle cloth number corresponding to the official number given that horse on the official program.

(b) In the case of a coupled entry that includes more than one horse, each horse in the entry shall carry the same number, with a different distinguishing letter following the number. As an example, two horses in the same entry shall appear in the official program as 1 and 1A.

(c) Each horse in the mutuel field shall carry a separate number or may carry the same number with a distinguishing letter following the number.

**§ 305.273. Jockey and apprentice license.**

(a) A jockey or an apprentice jockey who wants to obtain an appropriate license from the Commission shall meet all the licensing and eligibility requirements set forth in Chapter 303 (relating to licensing, duties and responsibilities of Thoroughbred occupational licensees—temporary regulations) of these regulations.

(b) No person under 18 years of age shall be licensed by the Commission as a jockey.

(c) The Stewards may permit a jockey to ride pending action on a license application.

(d) A licensed jockey may not be an owner or trainer of a race horse.

(e) A jockey may not make a bet on any horse other than the one the jockey is riding. The bet placed shall only be to “win” and shall only be placed through the owner or trainer of the horse the jockey is riding.

(f) A jockey may not solicit or accept directly or indirectly anything of value from any person for the performance of his duties other than the applicable jockey’s fee.

(g) A jockey shall not compete in any race against a horse which is trained by the jockey’s spouse or partner.

(h) It shall be unlawful and a violation of these rules for a jockey, an owner, trainer or other person authorized to handle the horse, to be in possession or control of any electrical, mechanical or similar type of stimulating or shocking device. In addition to any penalty imposed by the Stewards, the matter may be referred by the Commission to law enforcement agencies for criminal prosecution.

**§ 305.274. Examination of jockeys by licensed physicians.**

Before the beginning of a racing season, a jockey shall pass a physical examination given within the previous 12 months by a licensed physician affirming fitness to participate as a jockey. The Stewards may require that a jockey be reexamined and may refuse to allow the jockey to ride pending successful completion of the physical examination.

**§ 305.275. Requirements for apprentice jockeys.**

(a) A person 18 years of age or older who has never been licensed as a jockey in any country may apply to become an apprentice jockey. An applicant with an approved apprentice certificate may be licensed as an apprentice jockey.

(b) A person desiring an apprentice jockey certificate and the privilege of riding races at tracks in this Commonwealth shall provide proof of the following:

(1) Employment on the backside of a race track, including exercising horses on the track.

(2) Attending and reviewing video tapes of races in jockeys’ quarters, as scheduled by the Stewards.

(3) Observing jockeys and horses break from the gate, at the start of races under the supervision of a Starter, for at least three racing days and at least five races per racing day.

(4) Observing horses changing leads at the 1/4, 3/8 and 7/8 poles and observing horses and jockeys approaching the finish line and finishing the race.

(5) Participating in as many schooling races as possible through the cooperation of the racing secretary and informing two or more members of the board of approval of application for apprentice license as soon as the applicant has been notified of acceptance to ride in the schooling race.

(6) Breezing horses from the gate satisfactorily with a whip at least twice in the presence of two or more members of the board of approval.

(7) Riding with competence in two pari-mutuel races without a whip under a temporary apprentice jockey certificate. The applicant will be observed by the board of approval during the races.

**§ 305.276. Apprentice jockey weight allowances in overnight races.**

A certified apprentice jockey may claim the weight allowances set forth in Chapter 303 (relating to licensing, duties and responsibilities of Thoroughbred occupational licensees—temporary regulations) in all overnight races except stakes and handicaps.

**§ 305.277. Applications for extensions.**

If an apprentice jockey is unable to ride for a period of 5 consecutive days or more after the date of the apprentice jockey’s fifth winning mount because of restriction of racing, service in National armed forces, physical disablement or illness, or enrollment and attendance in an institution of secondary or higher education, the Commission may, upon the submission of appropriate documentation, extend the time during which the apprentice weight allowance may be claimed.

**§ 305.278. Jockey agents.**

(a) A jockey may have only one agent. A jockey agent may only handle up to two jockeys and may not make or assist in making of an engagement for a jockey other than those jockeys represented by the agent.

(b) A jockey agent is prohibited from:

(1) Being within the saddling enclosure during racing hours;

(2) Being on the racetrack proper at the conclusion of a race;

(3) Being in or having access to the jockey quarters during racing hours.

(c) No revocation of a jockey agent’s authority is effective until the jockey notifies the Stewards in writing of this revocation.

**§ 305.279. Valet-attendants.**

A jockey may not have a valet-attendant other than one provided by the licensed racing entity.

**§ 305.280. Jockey mount fees.**

(a) In the absence of a contract or other agreement between jockey representatives, the Commission shall use the following as a guideline for establishing jockey mount fees.

<i>Purse</i>	<i>Winning mount</i>	<i>Second mount</i>	<i>Third mount</i>	<i>Fourth mount</i>	<i>Other mounts</i>
0 to \$2,499	10% of Win Purse	\$55	\$50	\$45	\$40
\$2,500 to \$4,999	10% of Win Purse	\$60—\$75	\$55—\$70	\$50—\$65	\$45—\$60
\$5,000 to \$9,999	10% of Win Purse	\$65—\$85	\$60—\$80	\$55—\$75	\$50—\$65
\$10,000 to \$24,999	10% of Win Purse	5% of Place Purse	\$90—\$100	\$70—\$90	\$65—\$80
\$25,000 to \$49,999	10% of Win Purse	5% of Place Purse	5% of Show Purse	\$80—\$100	\$75—\$95
\$50,000 to \$99,999	10% of Win Purse	5% of Place Purse	5% of Show Purse	5% of Fourth Place Purse	\$80—\$100
\$100,000 and up	10% of Win Purse	5% of Place Purse	5% of Show Purse	5% of Fourth Place Purse	\$105—\$115

(b) A jockey's fee shall be considered earned when the jockey is weighed out by the clerk of scales. In the event an owner or trainer elects to remove a jockey from the mount after naming a rider at the time of the draw, the Stewards may require a double jockey fee to be paid.

(c) The fee shall not be considered earned when a jockey(s), of their own free will, take themselves off their mounts, where injury to the horse or rider is not involved. Any conditions or considerations not covered by the above rule shall be at the discretion of the Stewards. All jockey protests must be filed prior to the race.

**§ 305.281. Jockey suspensions and designated races.**

(a) For purposes of this subchapter, "designated race" shall mean any stakes race or associated trial in any state as designated by the Stewards.

(b) A jockey suspended for 10 days or less for a riding violation unless otherwise specified in the ruling may continue to exercise horses during training hours and may fulfill riding engagements in designated races, as designated by the Stewards at the beginning of the race meeting.

(c) The official rulings where designated races are permitted shall be stated in the initial ruling.

(d) A jockey who is serving a suspension of 10 race days or less may ride in designated races during the suspension under the following conditions:

(1) The race has been specified as a designated race by the Stewards officiating at the meeting; and

(2) The jockey is named no later than the time set for the close of entries for the designated race.

(e) When a jockey rides in a designated races the Board of Stewards, which originally imposed the suspension will designate the day to serve the additional suspension.

**§ 305.282. Jockey requirements.**

(a) Jockeys shall report to the jockeys' quarters at the time designated by the licensed racing entity. Jockeys shall report their engagements and any overweight to the clerk of scales. Jockeys shall not leave the jockeys' quarters, except to ride in scheduled races, until all of their riding engagements of the day have been fulfilled, except as approved by the Stewards.

(b) A jockey who has not fulfilled all riding engagements, who desires to leave the jockeys' quarters, must first receive the permission of the Stewards and must be accompanied by a licensed racing entity security guard.

(c) While in the jockeys' quarters, jockeys shall have no contact or communication with any person outside the

jockeys' quarters other than Commission personnel and officials, or an owner or trainer for whom the jockey is riding, except with the permission of the Stewards. Any communication permitted by the Stewards may be conducted only in the presence of the clerk of scales or other person designated by the Stewards.

(d) Jockeys shall be weighed out for their respective mounts by the clerk of scales not more than 30 minutes before post time for each race. Only valets employed by the licensed racing entity shall assist jockeys in weighing out.

(e) A jockey must wear a safety vest when riding in any official race. The safety vest shall meet the applicable standards for safety vests as set forth in Chapter 303 (relating to licensing, duties and responsibilities of Thoroughbred occupational licensees—temporary regulations).

**§ 305.283. Weighing out.**

(a) A jockey's weight shall include his/her clothing, boots, saddle and its attachments and any other equipment except the bridle, bit, blinkers, goggles, number cloth and safety equipment including helmet, vest, overgirth, reins and breast collar.

(b) Upon Stewards' approval, jockeys may be allowed up to 3 pounds more than published weights to account for inclement weather clothing and equipment.

(c) Seven pounds is the limit of overweight any horse is permitted to carry.

(d) Once jockeys have fulfilled their riding engagements for the day and have left the jockeys' quarters, they shall not be re-admitted to the jockeys' quarters until after the entire racing program for that day has been completed, except with permission of the Stewards.

**§ 305.284. Paddock to post.**

(a) Each horse shall carry the full weight assigned for that race from the paddock to the starting post, and shall parade past the Stewards' stand, unless excused by the Stewards. The post parade shall not exceed 12 minutes, unless otherwise ordered by the Stewards. It shall be the duty of the Stewards to ensure that the horses arrive at the starting gate as near to post time as possible.

(b) After the horses enter the track, a jockey may not dismount or entrust the horse to the care of an attendant without the prior consent of the starter, unless, it is necessary to do so because of an accident to the jockey, the horse or the equipment. During any delay during which a jockey is permitted to dismount, all other jockeys may also dismount and their horses may be attended by others. After the horses enter the track, only the jockey, an assistant starter, the Commission Veterinarian, the racing veterinarian or an outrider or pony rider may touch the horse before the start of the race.

(c) If a jockey is injured on the way to the post, the horse shall be returned to the paddock or any other area designated by the Stewards, re-saddled with the appropriate weight and remounted with a replacement jockey.

(d) After passing the Stewards' stand in parade, the horses may break formation and proceed to the post in any manner unless otherwise directed by the Stewards. Once at the post, the horses shall be started without unnecessary delay.

(e) Horses shall arrive at the starting post in post-position order.

(f) If a horse throws its jockey on the way from the paddock to the post, the horse must be returned to the point where the jockey was thrown, where it shall be remounted and then proceed over the route of the parade to the post. The horse must carry its assigned weight from paddock to post and from post to finish.

(g) If a horse leaves the course while moving from paddock to post, the horse shall be returned to the course at the nearest practical point to that at which it left the course and shall complete its parade to the post from the point at which it left the course unless ordered scratched by the Stewards.

(h) No person shall willfully delay the arrival of a horse at the post.

(i) The starter shall load horses into the starting gate in any order deemed necessary to ensure a safe and fair start as set forth in this chapter. Only the jockey, the racing veterinarian, the starter or an assistant starter shall handle a horse at the post.

#### § 305.285. Post to finish.

(a) In addition to the duties and responsibilities of the starter as set forth in this chapter, the starter is responsible for ensuring that each participant in every race receives a fair and appropriate start. If the Stewards suspect a false start has occurred, they shall post the inquiry sign and may disqualify the horse(s), declare it a non-starter, or take no action.

(b) If, when the starter dispatches the field, any door at the front of the starting gate stalls should not open properly due to a mechanical failure or malfunction or should any action by any starting personnel directly cause a horse to receive an unfair start, the Stewards may declare this horse a non-starter.

(c) If a horse is not in the starting gate stall at the time the field is dispatched by the starter thereby causing it to be left out, the horse shall be declared a non-starter by the Stewards.

(d) Should an accident or malfunction of the starting gate, or other unforeseeable event compromise the fairness of the race or the safety of race participants, the Stewards may declare individual horses to be non-starters, exclude individual horses from all pari-mutuel pools or declare the race a "no contest."

#### § 305.286. Interference, jostling or striking.

(a) A jockey shall not carelessly or intentionally permit the horse the jockey is riding to interfere with, impede or intimidate any other horse in the race.

(b) No jockey shall carelessly or intentionally jostle, strike or touch another jockey or another jockey's horse or equipment at any time in the race.

(c) No jockey shall unnecessarily or unreasonably cause the horse the jockey is riding to shorten its stride or pull up, so as to give the appearance of having suffered a foul.

#### § 305.287. Maintaining a straight course.

(a) During the running of the race, when the way is clear, a horse may be ridden or taken to any part of the course, but a horse may not cross, weave, or swerve in front of another horse, or otherwise be ridden to either side, so as to interfere with, impede or intimidate any other horse. This conduct shall be considered a foul. The offending horse may be disqualified, if in the opinion of the Stewards, the foul altered the finish of the race, regardless of whether the foul was accidental, willful or the result of careless riding.

(b) If the Stewards determine the foul was intentional, or due to careless riding, the jockey may be held responsible.

(c) In a straightaway race, every horse must maintain position as nearly as possible in the lane in which it starts. If a horse is ridden, drifts or swerves out of its lane in this manner that it interferes with, impedes or intimidates another horse, it is a foul and may result in the disqualification of the offending horse.

#### § 305.288. Disqualification.

(a) If the Stewards determine that a horse shall be disqualified for interference, the Stewards may place the offending horse behind these horses as in their judgment it interfered with, or they may place the offending horse last.

(b) If a horse is disqualified for a foul, any horse or horses in the same race owned or trained by the same interests, whether coupled or uncoupled may also be disqualified.

(c) No appeal may be taken from a decision of the Stewards not to disqualify a horse.

(d) When a horse is disqualified for interference in a time trial race, for the purposes of qualifying only, it shall receive the time of the horse it is placed behind plus one-hundredth of a second penalty or more exact measurement if photo finish equipment permits and shall be eligible to qualify for the finals or consolations of the race on the basis of the assigned time.

(e) Possession of any electrical or mechanical stimulating or shocking device by a jockey, horse owner, trainer or other person authorized to handle or attend to a horse shall be prima facie evidence of a violation of these rules and is sufficient grounds for the Stewards to scratch or disqualify the horse.

(f) The Stewards may determine that a horse shall be unplaced for the purpose of purse distribution and time trial qualification.

#### § 305.289. Multiple disqualifications.

Should the Stewards determine that there is more than one incident of interference in a race where disqualification is warranted, the Stewards shall deal with the incidents in the order in which the incident occurs during the race from start to finish; except in the case where the same horses are involved in multiple incidents. Once a horse has been disqualified, it should remain placed behind the horse with which it interfered. The Stewards shall make a conscious effort to place and maintain as placed, every and all horses placed behind others for interference.

#### § 305.290. Horses shall be ridden out.

(a) All horses shall be ridden out in every race. A jockey shall not ease up or coast to the finish, without reasonable cause, even if the horse has no apparent



chance to win prize money. A jockey shall at all times give a best effort during a race and each horse shall be ridden to win.

(b) A jockey may not intentionally ride wide on the turns, cause the horse to lose ground when there is no reasonable cause for the loss or ride in a manner inconsistent with using the best efforts of the horse.

**§ 305.291. Use of a riding crop.**

(a) Although the use of a riding crop is not required, any jockey who uses a riding crop during a race shall do so only in a manner consistent with exerting his/her best efforts to win. In all races where a jockey will ride without a riding crop, an announcement of this fact shall be made over the public-address system.

(b) Other than the riding crop approved by the Stewards, no electrical, mechanical or other device designed to increase or retard the speed of a horse, shall be possessed by a jockey, nor shall any electrical, mechanical device by applied by anyone to a horse at any time on the grounds of the licensed racing entity during the meeting.

(c) Riding crops shall not be used on 2-year-old horses before April 1 of each year.

(d) The riding crop shall be used during a race for safety, correction and encouragement of the horse in an appropriate, proportionate, and professional manner, taking into account the rules of racing herein. The stimulus provided by the use of the riding crop shall be monitored by the Stewards at all times so as not to compromise the health, safety and welfare of the horse.

(e) Except for extreme safety reasons all riders should comply with the following when using a riding crop:

(1) Initially showing the horse the riding crop or tapping the horse with the riding crop down, giving it time to respond before using it;

(2) Having used the riding crop, giving the horse a chance to respond before using it again;

(i) "Chance to respond" is defined as one of the following actions by a jockey:

(a) Pausing the use of the riding crop on their horse before resuming again;

(b) Pushing on their horse with a rein in each hand, keeping the riding crop in the up or down position;

(c) Showing the horse the riding crop without making contact; or

(d) Moving the riding crop from one hand to the other.

(3) Using the riding crop in rhythm with the horse's stride.

(f) When deciding whether to review the jockey's use of the riding crop, Stewards may consider how the jockey has used the riding crop during the course of the entire race, with particular attention to its use in the closing stages, and other relevant factors such as:

(1) The manner in which the riding crop was used;

(2) The purpose for which the riding crop was used;

(3) The distance over which the riding crop was used and whether the number of times it was used was reasonable and necessary; and

(4) Whether the horse was continuing to respond.

**§ 305.292. Review by Stewards.**

In the event there is a review by the Stewards, use of the riding crop may be deemed appropriate in the following circumstances:

(1) To keep a horse in contention or to maintain a challenging position prior to what would be considered the closing stages of a race,

(2) To maintain a horse's focus and concentration,

(3) To correct a horse that is noticeably hanging,

(4) To assure the horse maintains a straight course, or

(5) Where there is only light contact with the horse.

**§ 305.293. Prohibition.**

(a) Prohibited use of the riding crop includes but is not limited to striking a horse:

(1) On the head, flanks or on any other part of its body other than the shoulders or hind quarters except when necessary to control a horse;

(2) During the post parade or after the finish of the race except when necessary to control the horse;

(3) Excessively or brutally causing welts or breaks in the skin;

(4) When the horse is clearly out of the race or has obtained its maximum placing;

(5) Persistently even though the horse is showing no response under the riding crop; or

(6) Striking another rider or horse.

(b) After the race, horses will be subject to inspection by a racing or official Veterinarian looking for cuts, welts or bruises in the skin. Any adverse findings shall be reported to the Stewards.

(c) The giving of instructions by any licensee that if obeyed would lead to a violation of this rule may result in disciplinary action also being taken against the licensee who gave these instructions.

**§ 305.294. Horse leaving the racecourse.**

If a horse leaves the racecourse during a race, it must turn back and resume the race from the point at which it originally left the course.

**§ 305.295. Order of finish.**

(a) The official order of finish shall be decided by the Stewards. The video replay shall be available to assist in the Stewards' decision.

(b) The nose of the horse shall determine the placement of the horse in relationship to other horses in the race.

**§ 305.296. Returning after the finish.**

(a) After a race has been run, the jockey shall ride promptly to the place designated by the Stewards, dismount and report to the clerk of scales to be weighed in. Jockeys shall weigh in with all pieces of equipment with which they weighed out.

(b) If a jockey is prevented from riding to the designated unsaddling area because of an accident or illness to the jockey or the horse, the jockey may walk or be transported to the scales or may be excused from weighing in by the Stewards.

**§ 305.297. Unsaddling.**

(a) Only persons authorized by the Stewards may assist the jockey with unsaddling the horse after the race.

(b) No one shall place a covering over a horse before it is unsaddled.

**§ 305.298. Weighing in.**

(a) A jockey shall "weigh in" at no less than the same weight at which the jockey weighed out, and if under that weight, and after consideration of mitigating circumstances by the Board of Stewards, the jockey's mount may be disqualified from any portion of the purse money.

(b) In the event of this disqualification, all moneys wagered on the horse shall be refunded unless the race has been declared official.

(c) A jockey's weight shall include clothing, boots, saddle and its attachments and any other equipment, except a safety vest and helmet, the bridle, bit, blinkers, number cloth and over-girth, reins and breast collar.

(d) Upon approval of the Stewards, the jockeys may be allowed up to 3 pounds more than published weights to account for specialized inclement weather clothing and equipment.

(e) The post-race weight of jockeys includes any sweat, dirt and mud that have accumulated on the jockey, jockey's clothing, jockey's safety equipment and over-girth. This accounts for additional weight, depending on specific equipment, as well as weather, track and racing conditions.

**§ 305.299. Dead heats.**

(a) When two horses run a dead heat for first place, all purses or prizes to which first and second horses would have been entitled shall be divided equally between them; and this applies in dividing all purses or prizes whatever the number of horses running a dead heat and whatever places for which the dead heat is run.

(b) In a dead heat for first place, each horse involved shall be deemed a winner and liable to penalty for the amount it shall receive.

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

(d) If the dividing owners cannot agree as to which of them is to have a cup or other prize which cannot be divided, the question shall be determined by lot by the Stewards.

**OBJECTIONS AND PROTESTS**

**§ 305.301. Stewards' inquiries.**

(a) During the running of a race, the Stewards shall take cognizance of foul riding and upon their own motion or other racing official empowered by this chapter to object or complain of an occurrence during the race, shall immediately post an official inquiry and shall make every diligent effort to investigate the objection or complaint.

(b) In determining the extent of disqualification, the Stewards in their discretion may:

(1) Declare null and void a track record set or equaled by a disqualified horse, or any horses coupled with it as an entry;

(2) Affirm the placing Judges' order of finish and hold the jockey responsible if, in the Stewards' opinion, the foul riding did not affect the order of finish; or

(3) Disqualify the offending horse and hold the jockey blameless, if in the Stewards' opinion, the interference to

another horse in a race was not the result of an intentional foul or careless riding on the part of a jockey.

(c) No appeal may be taken from the decision of the Stewards not to disqualify a horse as a result of the running of a race.

**§ 305.302. Race objections.**

(a) An objection to an incident alleged to have occurred during the running of a race shall be received only when lodged with the clerk of scales, the Stewards or their designees, by the owner, the authorized agent of the owner, the trainer or the jockey of a horse engaged in the same race.

(b) An objection following the running of any race must be filed before the race is declared official by the Stewards, whether all or some riders are required to weigh in, or the use of a "fast official" procedure is permitted. No objection shall be received once the race has been declared official.

(c) The Stewards shall take into account all information provided by race participants and matters occurring during the running of a race; shall determine all objections and inquiries and shall determine the extent of disqualification, if any, of horses in the race. This determination by the Stewards shall be final and binding.

**§ 305.303. Prior objections and protest.**

(a) Objections or protests to the participation of a horse entered in any race shall be made to the Stewards in writing, signed by the objector, and filed not later than 60 minutes prior to post time for the first race on the day which the questioned horse is entered. A protest not timely received shall be denied on those grounds. A protest shall set forth the specific reasons for the protest in detail to establish probable cause for the protest and the information provided by the protestor shall be verified and signed in affidavit form. The Stewards may upon their own motion consider an objection until the time as the horse becomes a starter.

(b) An objection or protest to a horse which is entered in a race may be made on, but not limited to, the following grounds or reasons:

(1) A misstatement, error or omission in the entry under which a horse is to run;

(2) The horse which is entered to run is not the horse it is represented to be at the time of entry, or the age was erroneously given;

(3) The horse is not qualified to enter under the conditions specified for the race, or the allowances are improperly claimed or not entitled to the horse, or the weight to be carried is incorrect under the conditions of the race;

(4) The horse is owned in whole or in part, or leased or trained by a person ineligible to participate in racing or otherwise ineligible to own a race horse as provided in these rules or the horse was entered without regard to a lien filed previously with the racing secretary;

(5) The weight carried by a horse was improper, by reason of fraud or willful misconduct.

(c) The Stewards may scratch from the race any horse which is the subject of an objection if they have reasonable cause to believe that the objection is valid.

(d) Notwithstanding any other provision in this section, the time limitation on the filing of protests shall not apply in any case in which fraud or willful misconduct is

alleged provided that the Stewards are satisfied that the allegations are bona fide and have been duly verified by affidavit.

(e) The Stewards may order any purse, award or prize for any race withheld from distribution pending the determination of any protest. In the event any purse, award or prize has been distributed to an owner or for a horse which by reason of a protest or other reason is disqualified or determined to be not entitled to this purse, award or prize, the Stewards or the Commission may order this purse, award or prize returned and redistributed to the rightful owner or horse. Any person who fails to comply with an order to return any purse, award or prize erroneously distributed shall be subject to fines and suspension.

**CLAIMING RACES**

**§ 305.401. General provisions.**

(a) A person entering a horse in a claiming race warrants that the title to said horse is free and clear of any existing claim or lien, either as security interest mortgage, bill of sale, or lien of any kind; unless before entering the horse, the written consent of the holder of the claim or lien has been filed with the Stewards and the racing secretary and its entry approved by the Stewards. A transfer of ownership arising from a recognized claiming race will terminate any existing prior lease for that horse.

(b) Title to a claimed horse shall be vested in the successful claimant at the time the horse becomes a starter. However, the successful claimant may request on the claim blank or envelope at the time of the claim that the horse be tested for any test as approved by the Commission Veterinarian. Should this test prove positive, it shall be cause for voiding the claim. The expense of the test shall be the responsibility of the successful claimant.

(c) An in-foal filly or mare shall be eligible to be entered into a claiming race upon notice to the racing secretary, the Stewards and the Commission Veterinarian.

(d) The Stewards may set aside and order a claim rescinded for any horse from a claiming race run in this Commonwealth upon a showing that any party to the claim committed a prohibited action, as set forth in § 305.405 (relating to transfer of possession of a claimed horse) of this chapter, or that the owner of the horse at the time of entry in the claiming race failed to comply with any requirement of these rules. Should the Stewards set aside the claim, they may make a further order for the costs of maintenance and care of the horse as they may deem appropriate for the health and safety of the horse.

**§ 305.402. Claiming of horses.**

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

- (1) Licensed owner;
- (2) Licensed authorized agent acting on behalf of an eligible claimant.

(b) Every horse claimed shall race for the account of the original owner, but title to the horse shall be transferred to the claimant at the time the horse becomes a starter as determined by the Stewards. The successful claimant shall become the owner of the horse under the provisions of this chapter.

**§ 305.403. Procedure for claiming.**

(a) To make a valid claim for a horse, an eligible person shall:

(1) Have on deposit with the horsemen's bookkeeper an amount equal to the amount of the claim. Money may not accompany the claim;

(2) Complete a written claim on a form furnished by the licensed racing entity and approved by the Commission;

(3) Identify the horse to be claimed by the spelling of its name on the certificate of registration or as spelled on the official program;

(4) Place the completed claim form inside an envelope furnished by the licensed racing entity and approved by the Commission;

(5) Both forms and envelopes must be filled out completely and must be substantially accurate or the claim may be voided. The Stewards shall, in their sole discretion, determine what is substantially accurate;

(6) Have the envelope deposited in the claim box no later than 10 minutes prior to post time of the race for which the claim is entered.

(b) After a claim has been completely deposited in the claim box, it is irrevocable by the claimant and shall not be withdrawn from the claim box until the time designated by the Stewards.

(c) Officials and employees of the licensed racing entity shall not provide any information as to the filing of claims until after the race has been run, except as is necessary for processing of the claim.

(d) If more than one claim is filed on a horse, the successful claim shall be determined by lot conducted by the Stewards or their representatives.

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

**§ 305.404. Prohibitions.**

(a) A person shall not claim a horse, directly or indirectly, in which the person has a financial or beneficial interest as an owner or trainer.

(b) A person shall not cause another person to claim a horse for purposes of obtaining or retaining an undisclosed financial or beneficial interest in the horse.

(c) A person may not offer or enter into an agreement for purposes of preventing another person from obtaining a horse in a claiming race.

(d) A person shall not claim a horse or enter into any agreement to have a horse claimed, on behalf of an ineligible or undisclosed person.

(e) A person shall not claim more than one horse in a race. No authorized agent shall submit more than one claim for the same horse in a race, even if the authorized agent represents several owners.

(f) A person may not claim from his spouse a horse owned wholly or in part by that spouse.

**§ 305.405. Transfer of possession of a claimed horse.**

(a) Upon successful claim, the Stewards or their representative shall issue an authorization of transfer of possession of the horse from the original owner to the



successful claimant. Copies of the transfer authorization shall be forwarded to and maintained by the Stewards and the racing secretary. Upon notification by the Stewards, the horsemen's bookkeeper shall immediately debit the claimant's account for the claiming price.

(b) A person shall not refuse to deliver a properly claimed horse to the successful claimant as determined by the provisions of this chapter.

(c) Delivery of a claimed horse shall take place in accordance with § 305.407 (relating to subsequent start of a claimed horse).

(d) When a horse is claimed out of a claiming race, the horse's engagements are transferred, with the horse, to the claimant.

(e) A claimed horse shall not remain in the same stable or under the control or management of its former owner.

(f) If the claimed horse has been approved by the Stewards to run without the registration certificate on file in the racing office, then the registration certificate must be provided to the Stewards for transfer to the new owner before claiming funds will be approved for transfer by the Stewards.

#### § 305.406. Delivery of claimed horse.

(a) In the event a horse dies during a claiming race or is euthanized on the racetrack during a claiming race, any claim made on that horse will be declared void.

(b) In the event that a horse is vanned off the racetrack after a claiming race, that horse will be taken to the detention barn for no longer than 1 hour from post-time of the race. The successful claimant for the horse may declare the claim void at the claimant's election within 1 hour of post-time of the race, except that the claim may not be declared void if the horse was vanned off the track due solely to heat stroke or bleeding from the nostrils, as determined by the Commission Veterinarian. In the event the successful claimant exercises the claimant's discretion to declare the claim void, the horse will be returned to the custody of the original owner who entered the horse in the claiming race.

(c) If a horse is placed on the Veterinarian's List within 1 hour of post-time of the race after having been taken to the test barn under its own power or otherwise without assistance for evaluation by the Commission Veterinarian, the successful claimant may declare the claim null and void at his or her election. Except that, the claim may not be declared null and void if the horse is placed on the Veterinarian's List due solely to heat stroke or bleeding from the nostrils, as determined by the Commission Veterinarian. In the event the successful claimant exercises his/her discretion to declare the claim void, the horse will be returned to the custody of the original owner who entered the horse in the claiming race.

#### § 305.407. Subsequent start of a claimed horse.

For a period of 20 days after the claim, a claimed horse may not start in a race in which the determining eligibility price is less than 25% more than the price at which it was claimed. The day claimed does not count, but the following calendar day shall be the first day and the horse shall be entitled to enter whenever necessary so that the horse may start on the 21st calendar day following the claim for any claiming price. This section does not apply to starter allowance or starter handicaps.

#### § 305.408. Subsequent sale and transfer of claimed horse.

When a horse is claimed, it may not be sold or transferred to anyone wholly or in part, except in a

claiming race, for a period of 30 days from date of claim, nor may it, unless reclaimed, remain in the same stable or under the control or management of its former owner or trainer for a like period, nor may it race elsewhere until the end of the race season in progress or for a period of 60 days, whichever occurs first. The Commission may waive this section upon application and demonstration by the requestor that the waiver is in the best interest of the requestor, the licensed racing entity, and horse racing in general in this Commonwealth.

#### § 305.409. Posting of claiming price.

The claiming price of each horse in a claiming race shall be printed on the program and claims for the horse shall be the amount so designated.

#### § 305.410. Starting in claiming races.

In claiming races not more than two horses in the same interest or under control of the same trainer can start.

#### § 305.411. Foal certificate.

The foal certificate of a claimed horse shall remain in the custody of the racing secretary or his representative until the new owner removes the horse from the track.

#### § 305.412. Cancellation of claiming race results.

If the Stewards, within 24 hours after the running of a race, believe that the lease, sale or entry of a horse was not made in good faith but was made for the purpose of obtaining the privilege of entering a claim, they may disallow the claim and order the return of a horse that may have been delivered and refer the case to the Commission for further action.

### CHAPTER 307. PENNSYLVANIA BREEDERS' FUND PROGRAM—TEMPORARY REGULATIONS

Sec.	Definitions.
307.1.	Eligibility for Pennsylvania-bred races.
307.2.	Records of registration.
307.3.	Appeals.
307.4.	Purses and awards.
307.5.	Pennsylvania Horse Breeders Association.
307.6.	

#### § 307.1. Definitions.

The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

*Breeder*—The owner of the dam at the time of foaling, and indicated this on the certificate of registration issued by the Jockey Club.

*Fund*—The Pennsylvania Breeding Fund as created by section 9336 of the act (relating to Pennsylvania Breeding Fund).

*The Jockey Club*—The breed registry organization for all thoroughbred horses in North America, having responsibility for maintaining the American Stud Book, which includes all thoroughbreds foaled in the United States, Canada and Puerto Rico, as well as thoroughbreds imported into those countries from other countries that maintain similar thoroughbred registries.

*Pennsylvania-bred horse*—A thoroughbred horse with respect to which all of the following apply:

- (i) The horse was foaled in this Commonwealth.
- (ii) The horse is the subject of a current certificate of registration issued by the Jockey Club.
- (iii) The horse meets the registration eligibility qualifications for participation in the Fund program as determined by the Pennsylvania Horse Breeders Association.

(iv) The horse is registered with the Pennsylvania Horse Breeders Association in accordance with § 307.3 (relating to records of registration).

*Pennsylvania sire*—A thoroughbred stallion with respect to which all of the following apply:

- (i) The horse regularly stands in this Commonwealth.
- (ii) The horse meets the registration eligibility qualifications for participation in the Fund program as determined by the Pennsylvania Horse Breeders Association.
- (iii) The horse is registered with the Pennsylvania Horse Breeders Association in accordance with § 307.3 and is so registered each year the stallion stands in Pennsylvania.

**§ 307.2. Eligibility for Pennsylvania-bred races.**

To be eligible for preferences in races in which registered Pennsylvania-breds are preferred and to be eligible for entry in races which are restricted by condition to registered Pennsylvania-breds, a horse shall be registered as a Pennsylvania-bred with the Pennsylvania Horse Breeders Association at the time of entry.

**§ 307.3. Records of registration.**

Foals and sires eligible for registration shall be registered on official registration forms approved by the Commission and maintained by the Pennsylvania Horse Breeders Association. The registrar shall certify thereon the name and address of the owner, breeder, farm where mare was covered, farm of which this horse was foaled, owner of stallion at time the mare was covered, stallion by which the mare was covered following the birth of the thoroughbred to be registered, breeder Social Security or tax identification number, Jockey Club registration number, name of foal, color and sex of foal, date of foaling, sire, dam, sire of the dam, signature of the owner, or breeder or authorized representative and the date of application.

(1) The registration record shall be maintained at the headquarters of the Pennsylvania Horse Breeders Association and be open to public inspection during normal business days and hours.

(2) Immediately upon completion and filing of the form, the Pennsylvania Horse Breeders Association shall cause a correct copy of it to be filed with the offices of the Commission in Harrisburg.

**§ 307.4. Appeals.**

(a) A person having an interest in the matter shall have the right to file objections or exceptions to a registration and to the facts set forth therein within 30 days of the filing of the copy with the Commission. The objections or exceptions shall be delivered in writing to the Pennsylvania Horse Breeders Association (PHBA) and a duplicate copy delivered to the Commission within the 30-day time period. The PHBA shall rule upon the objections or exceptions within the 10 days of the delivery and receipt. An interested party aggrieved by an action taken by the PHBA may appeal to the Commission in the manner and within the time period prescribed for appeals in Chapter 179 (relating to Rules of Administrative Practice and Procedure—temporary regulations) of the Commission. The Commission may hear and determine an appeal de novo in accordance with its regular hearing procedures or the parties may seek an expedited documentary hearing in accordance with Chapter 179 Subchapter C (relating to Commission hearings) of the Commission regulations. The parties may appeal the Commission's final determination to the Commonwealth

Court within 30 days of receipt of the written adjudication. In the absence of a timely appeal to the Commonwealth Court, a registration shall be deemed final and binding and an official record of the Commission for all purposes under the act. Except that, the Commission may, in its discretion, correct an error or inaccuracy that it may find within the records.

(b) The Commission is not an aggrieved party as contemplated by 2 Pa.C.S. § 702 (relating to Administrative Agency Law) and shall be deemed a disinterested party in the registration matter subsequently appealed, by either party, to the Commonwealth Court. In accordance with Pa.R.A.P. 1513(a), as a disinterested party, the Commission shall not be named on the caption or listed as the Respondent on Appellant's Petition for Review.

**§ 307.5. Purses and awards.**

(a) A prize awarded under this section shall be in accordance with the standards for purses at each racing meet as approved by order of the Commission. Each prize shall be advanced to the Horsemen's Bookkeeper Account as won or earned at each meet by the racing association conducting the meet. The racing association shall maintain a separate ledger of them and shall transmit a certified copy of allowances, prizes and purses made no later than every 10th day of each month of the meets to the Commission. After the Commission has reviewed and approved them, it shall reimburse the racing association for the advances made which the Commission finds proper.

(b) The Pennsylvania Horse Breeders Association shall compile awards earned by breeders, owners of Pennsylvania sires and owners of Pennsylvania-bred horses and maintain a separate ledger of them. Monthly, a certified report of awards earned shall be forwarded to the Commission. After the Commission has reviewed and approved them it will be forwarded to the Department of Treasury for payment to the awardees. In accordance with section 9336(b.1) of the act (relating to Pennsylvania Breeding Fund), awards shall be distributed as follows:

(1) An award of 40% of the purse earned by every registered Pennsylvania-bred thoroughbred race horse sired by a registered Pennsylvania sire at the time of conception of the registered Pennsylvania-bred thoroughbred race horse which finishes first, second or third in any race conducted by a licensed racing entity under this chapter shall be paid to the breeder of the registered Pennsylvania-bred thoroughbred race horse.

(2) An award of 20% of the purse earned by every registered Pennsylvania-bred thoroughbred race horse sired by a nonregistered sire, which finishes first, second or third in any race conducted by a licensed racing entity under this chapter shall be paid to the breeder of the registered Pennsylvania-bred thoroughbred race horse.

(3) A single award under paragraphs (1) and (2) may not exceed 1% of the total annual fund money.

(4) An award of 10% of the purse earned by any registered Pennsylvania-bred thoroughbred race horse which finishes first, second or third in any race conducted by a licensed racing entity under this chapter shall be paid to the owner of the registered Pennsylvania sire which regularly stood in Pennsylvania at the time of conception of the Pennsylvania-bred thoroughbred race horse. A single award under this paragraph may not exceed 0.5% of the total annual fund money.

(c) A person interested in the awards, allowances, prizes and purses and objecting to calculations or determinations thereof as shown on the records of the racing

association, the Pennsylvania Horse Breeders Association and the horsemen's bookkeeper, shall be responsible for taking written appeals to the Commission in the manner provided for appeals from decisions of the association pertaining to registrations.

(d) The Commission will have the right to review and approve fees and charges imposed by the Pennsylvania Horse Breeders Association for a program. The charge or fee may not be imposed without prior approval by the Commission.

(e) Records, funds and accounts of funds, prizes, purses, allowances and awards under this program shall be maintained separate from other records, funds and accounts and may not become mingled with other matters. The records, funds and accounts shall be kept continuously open for inspection by the Commission.

#### § 307.6. Pennsylvania Horse Breeders Association.

(a) The Commission shall contract with the Pennsylvania Horse Breeders Association as the organization responsible for the registration and records of Pennsylvania-bred Thoroughbred race horses. The Pennsylvania Horse Breeders Association shall advise the Commission when called upon and shall determine the qualifications for Pennsylvania-bred Thoroughbred race horses and Pennsylvania sires.

(b) At the close of each calendar year, the Pennsylvania Horse Breeders Association shall submit to the Commission for its approval an itemized budget of projected expenses for the ensuing year relating to the administration and development of the Pennsylvania Breeding Fund Program. The Commission, on no more than a quarterly basis, shall reimburse from the fund the Pennsylvania Horse Breeders Association for those expenses actually incurred in the administration and development of the Pennsylvania Breeding Fund Program.

### Subpart F. FOREIGN SUBSTANCES, MEDICATIONS, DRUGS AND EQUINE VETERINARY PRACTICES

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#### CHAPTER 401. PROHIBITED AND UNLAWFUL PRACTICES—TEMPORARY REGULATIONS

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#### § 401.1. Definitions.

The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

*Administer or Administration*—The introduction of a substance into the body of a horse.

*Bleeder*—A horse which hemorrhages from the respiratory tract during a race or within 1 hour post-race, or during exercise or within 1 hour of the exercise or as specifically set forth in the Commission's regulations.

*Bleeder List*—A tabulation of bleeders to be maintained by the Commission.

*Commission Testing Laboratory*—The officially accredited laboratory of the Commission designated as the primary laboratory for the detection, confirmation and reporting of primary sample findings.

*Controlled substance*—A substance included in the five classification schedules of the Controlled Substance Act of 1970 (21 U.S.C.A. §§ 801—971).

*Controlled therapeutic medication*—A medication approved by the Commission or the Association of Racing Commissioners International (ARCI) for which the regulatory analyte concentration in the samples may not exceed specified regulatory limits approved and published by the Commission.

*Foreign substances*—All prohibited substances except those which exist naturally in the untreated horse at normal physiological concentration.

*Furosemide*—4-chloro-N-(2-furylmethyl)-5-sulfamoyl-anthranilic acid. Also known as Lasix.

*Horse*—Either Thoroughbred or Standardbred horses registered for racing under the jurisdiction of the Commission and for the purposes of this chapter shall mean stallion, colt, gelding, ridgling, filly or mare.

*Hypodermic injection*—An injection into or under the skin or mucosa, including intradermal injection, subcutaneous injection, submucosal injection, intramuscular injection, intravenous injection, intra-arterial injection, intra-articular injection, intra-bursal injection, intra-ocular (intra-conjunctival) injection.

*Overage*—A finding certified by the Commission Testing Laboratory that a regulatory analyte from a controlled therapeutic medication is present in the sample in an amount that exceeds the regulatory limit or threshold level.



*Positive test*—A determination by the Standardbred or Thoroughbred Bureau Directors based upon a finding by the Commission Testing Laboratory that a regulatory analyte from a prohibited substance is present in the sample in an amount that exceeds the regulatory limit.

*Practicing veterinarian*—A private veterinary practitioner licensed by the Commission and authorized to practice at a licensed racetrack facility within this Commonwealth.

*Prohibited substance*—Any substance, other than controlled therapeutic medication, or vaccine, equine antihelminthic, antibiotic, equine feed supplement, vitamins and minerals (collectively, “horse health and husbandry products”), for which the regulatory analyte concentration in samples may not exceed specified regulatory limits published herein.

*Race day*—The 24-hour period prior to the scheduled post time for the first race.

*Regulatory analyte*—An analyte or substance identified and, where appropriate, quantified in a specified matrix for regulatory purposes.

*Regulatory limit or Threshold level*—The concentration of a specified regulatory analyte that has been defined and published by the Racing Medication and Testing Consortium (RMTC) or ARCI and adopted by the Commission provided that exceeding the specified concentration is deemed either an overage or a positive test.

*Security area*—The area surrounding the security stall delineated by the Commission and controlled by it.

*Security stall*—The stall assigned by the Commission to a horse on the bleeder list, for occupancy as a prerequisite for receiving bleeder medication, sometimes called the detention stall.

*Split sample laboratory*—A duly accredited facility approved by the Commission to test split samples.

*Test sample*—A portion of a biological or bodily substance or fluid, including, but not limited to, tissue, hair, blood or urine obtained from a horse at the direction of the Commission for the purposes of determining the presence or concentration, or both, of regulatory analytes.

**§ 401.2. General provisions.**

(a) The purpose of this chapter is to protect the integrity of horse racing, to ensure the health and welfare of the horse and to protect the interests of the betting public and racing participants through the prohibition, strict control and detection of drugs, medications, foreign substances to the untreated horse and the regulation of devices for the administration of those substances. In this context:

(1) A horse participating in a race may not carry in its body a prohibited drug, medication, chemical, substance or any other substance foreign to the untreated horse, except as otherwise provided.

(2) A person acting alone or in concert may not provide, administer, cause to be administered or allow to be administered to a horse, by any means or methods, a foreign substance, a prohibited drug, medication, chemical or other substance, including any restricted medication under this chapter during the 24-hour period prior to the scheduled post time for the race in which the horse is entered, except as otherwise provided.

(3) In addition to the Commission approved Prohibited Substances List and the provisions of Chapter 403 (relat-

ing to equine veterinary practices—temporary regulations), the term prohibited substance shall include:

(i) Drugs or medications for which no acceptable threshold concentration has been established;

(ii) Controlled therapeutic medications in excess of established threshold concentrations or administration within the restricted time period, if approved by the Commission, and set forth by the *ARCI Controlled Therapeutic Medication Schedule* and the *Uniform Classification Guidelines of Foreign Substance*;

(iii) Substances present in the horse in excess of concentrations at which the substances could occur naturally; and

(iv) Substances foreign to a horse at concentrations that may cause interference with testing procedures.

(b) No person may possess or use a drug, substance, chemical or medication on the premises of a licensed racetrack or other facility under the jurisdiction of the Commission that:

(1) A recognized analytical method has not been developed to detect and confirm the administration of the substance;

(2) Its use may endanger the health and welfare of the horse or endanger the safety of the rider or driver;

(3) Its use may adversely affect the integrity of racing;

(4) No generally-accepted use in equine care exists; or

(5) Has not been approved by the United States Food and Drug Administration (FDA) for use in the United States.

(c) Notwithstanding subsection (b), a person may have in his possession within a race track enclosure a medication or drug for that person’s own use if the person produces a proper and valid prescription. If the medication, drug or chemical substance is prohibited from being dispensed by Federal or State law without a prescription, that person shall possess documentary evidence that a valid prescription for the chemical substance has been issued to him. However, regardless of a valid prescription, a jockey, driver or trainer may not use or be under the influence of a medication, drug or other chemical substance while actively engaged in their respective activities. The possession of a medical marijuana card by a licensee shall not be a defense to the charge of violating the rules of racing for possession of a controlled substance for jockeys, drivers and trainers engaged in their respective occupational duties.

**§ 401.3. Restrictions; prima facie evidence.**

(a) *General Rule.* A horse participating in a race may not carry in its body a prohibited drug, medication, chemical, substance or any other substance foreign to the natural horse, except as provided in § 401.4 (relating to substances of therapeutic value).

(b) The detection and confirmation by the Commission’s Testing Laboratory of a prohibited drug, medication, chemical, substance or any other foreign substance in a test sample of a horse shall be prima facie evidence that the prohibited drug, medication, chemical, substance or other foreign substance was administered to the horse and carried in the body of the horse while participating in a race. This finding shall also be taken as prima facie evidence that the trainer and the trainer’s agents responsible for the care, custody or control of the horse has been negligent in the handling or care of the horse.

(c) The determination by the Standardbred or Thoroughbred Bureau Directors, based upon a finding by the Commission Testing Laboratory of a foreign substance or an approved therapeutic substance above the established level in violation of this chapter, may be declared an overage or positive test and may result in the horse being disqualified from purse money or other awards, except for purposes of pari-mutuel wagering, which shall be in no way affected.

**§ 401.4. Substances of therapeutic value.**

(a) A foreign substance of accepted therapeutic value may be administered as prescribed by a veterinarian when test levels and guidelines for its use have been established, adopted and published by the Commission, the *RMTC Schedule of Therapeutic Medications*, the ARCI, the USTA, or a similar Nationally recognized organization.

(1) The administration of furosemide shall be permitted for the prophylactic treatment of a confirmed bleeder under the specific provisions set forth in §§ 403.14 and 403.15 (relating to furosemide (Lasix—Thoroughbred); and furosemide (Lasix—Standardbred)).

**§ 401.5. Tubing, dosing or jugging prohibited.**

The tubing, dosing or jugging of any horse for any reason within 24 hours prior to its scheduled race is prohibited unless administered for medical emergency purposes by a licensed veterinarian treating the horse. The licensed veterinarian shall comply with the reporting and treatment requirements set forth in these regulations. The horse shall immediately be scratched by the Judges or Stewards. The practice of administration of any substance by means of a naso-gastric tube or dose syringe into a horse's stomach within 24 hours prior to its scheduled race is considered a violation of these rules and subject to disciplinary action, which may include fine, suspension and revocation of license.

**§ 401.6. Possession of illegal, prohibited substances and devices.**

(a) The Commission, its investigative personnel, the Judges and Stewards or other Commission designee personnel shall have the right to enter buildings, stables, rooms or other places within the grounds of a licensed racetrack facility and to examine and inspect those locations and the personal property and effects of a person within these locations.

(b) A person granted a license by the Commission, by accepting his license, consents to the search and seizures of all contraband, including hypodermic syringes, hypodermic needles or other devices and drugs, stimulants or narcotics which could be, used in connection therewith, or appliances (electrical, mechanical or otherwise) other than ordinary racing equipment, of the nature that could affect the speed, performance or racing condition of a horse.

**PRE-RACE TESTING**

**§ 401.11. Pre-race blood gas testing—Standardbred.**

(a) *General Rule*—The administration or use of alkalinizing agents or similar substances that elevate a horse's Base Excess (BE) or TCO<sub>2</sub> levels above those existing naturally in the untreated horse at normal physiological concentrations is prohibited. To assist in the detection of the prohibited substances in a horse entered to race, the Commission may conduct prerace blood sampling and pre-race testing with the use of an ac-

cepted, reliable testing instrument, including but not limited to a blood gas analyzer for measuring BE levels in blood samples.

(b) Unless otherwise permitted by these rules, no foreign substance shall be carried in the body of a horse when the horse is on the grounds of the licensed racetrack. It shall be a violation of this rule for a horse to test above the established BE levels on race day.

(c) The Board of Judges shall determine which horses will be selected for blood gas testing by random lots or by pre-determined selection based on previous elevated levels found in horses from a particular trainer or owner, probable cause or a trainer or owner's conditional license status.

(1) All horses selected to be tested shall be brought to the designated area for the prerace testing before the horse's first warm up. The order and number of horses which shall have blood drawn for prerace testing shall be randomly selected by lots by the Presiding Judge or the Judges' designee.

(2) In accordance with the Commission's regulations, it is presumed that a horse, when entered to race by an owner or trainer, shall be presented on race day in a sound and healthy condition. It is the sole responsibility of the owner, trainer or groom accompanying the horse to identify any health issues pertaining to the horse and immediately notify the Commission Veterinarian or other Commission personnel prior to the initiation of pre-race testing.

(3) Failure or refusal by a licensee to present a selected horse under his care, custody or control for blood gas analyzer testing, or who refuses in any other way, shall result in an automatic scratch of the horse from the racing program, and any other appropriate disciplinary action in the discretion of the Judges. The Commission Veterinarian shall document the name of the trainer or person who refuses to have blood drawn from the horse and shall file a report with the Commission.

(4) An owner, trainer or groom shall be permitted to observe the testing procedure but may not question, object or otherwise disrupt the testing by the blood gas technician or the Commission Veterinarian.

(d) The Commission shall adopt standard operating procedures documenting the calibration procedures for the blood gas analyzer, sampling procedures, initial testing and retesting procedures, methods used by personnel and positive test notification processes. The documentation related to these procedures shall be made a part of the Commission's chain of custody documentation and shall be admitted into evidence any subsequent hearings without need for authentication or the presence of individuals preparing those documents.

(e) The Commission Veterinarian shall provide documentation reflecting the tattoo or name of the horse from which the blood was drawn, the date and time the blood was drawn, and any other identifying information the Commission deems necessary and appropriate. The Commission Veterinarian shall be responsible to verify that the blood samples for the specific horse in question were tested in accordance with the Commission's procedures.

**§ 401.12. Initial testing procedures.**

In accordance with the Commission's procedures, the Commission Veterinarian shall draw a blood sample from the selected horse which shall be tested by the blood gas technician using a blood gas analyzer or similar machine.

Should the initial testing indicate an elevated level of BE in the horse, a Commission representative will immediately notify the owner, trainer or groom present of the horse's elevated levels. The horse's initial high levels will be duly documented in the control sheet.

**§ 401.13. Retesting procedures.**

(a) The Commission Veterinarian or designee shall take the rectal temperature of the horse who had elevated Base Excess (BE) levels. The horse's temperature will be recorded on the Commission Veterinarian's control sheet. The Commission Veterinarian shall extract a second blood sample from the horse.

(b) The horse's second blood sample shall be tested three times utilizing the same procedures and blood gas analyzer machine as the horse's initial blood sample. If the horse's three retests still indicate a high BE level, it shall be considered a positive test and the following will occur:

(1) The Commission Veterinarian shall inform the owner, trainer or groom present of the positive test;

(2) The Commission's investigator shall advise the Board of Judges of the BE positive test; and

(3) The Board of Judges will scratch the horse from the race.

(c) Should any of the three retests fall below the Commission's established threshold, it shall be considered negative and the horse shall be permitted to race.

**§ 401.14. Base excess prohibited levels.**

The prohibited Base Excess (BE) concentrations are as follows: BE level of 10.0 mmol/l (mEq/l) or higher for nonfurosemide (Lasix) treated horses and BE level of 12.0 mmol/l (mEq/l) or higher for furosemide (Lasix) treated horses. The level of uncertainty will be included before it is considered a violation of these rules. The level of uncertainty is 0.4 mmol/l (mEq/l) and a positive test report must include this level of uncertainty. A horse must show a BE level of 10.4 mmol/l (mEq/l) or higher for a nonfurosemide (Lasix) treated horse and a BE level of 12.4 mmol/l (mEq/l) or higher for a furosemide (Lasix) treated horse in order for a violation to be reported under this rule.

**§ 401.15. Alternate TCO2 protocol and levels.**

(a) The Commission may establish an alternate protocol to determine the levels of total carbon dioxide (TCO2) in a horse using the same methods and procedures as the Base Excess testing, except that the horse's second blood sample may be obtained, sealed and secured and stored in the same manner as post-racing samples. The second blood sample taken from a horse with a positive Base Excess may be forwarded to the Commission Testing Laboratory and subjected to post-race testing in accordance with the Commission's regulations.

(b) *Standardbred TCO2 levels:* A blood serum or plasma TCO2 level shall not exceed 37.0 millimoles per liter in a nonfurosemide (non-Lasix) horse and not to exceed 39 mmol/L for a furosemide (Lasix) horse.

**§ 401.16. Base excess penalties.**

The Commission may establish and publish a list of penalties against an owner or trainer for positives tests of the Base Excess or TCO2 levels, if applicable, as previously set forth.

**§ 401.17. Total carbon dioxide testing for stakes races—Thoroughbred.**

(a) For thoroughbred stakes races or other races as directed by the Commission, the Commission may estab-

lish procedures and protocols for the testing, detection and confirmation of an alkalizing substance which could alter the blood serum, plasma pH or concentration of bicarbonates or carbon dioxide in a horse. The use of any foreign substance within 24 hours prior to post time of the race in which the horse is entered is strictly prohibited.

(b) The Commission may utilize either pre-race sampling or post-race sampling and post-race testing procedures of blood samples from a horse to determine the total carbon dioxide concentration in the blood serum or plasma of the horse.

(c) *Thoroughbred TCO2 levels:* A blood serum or plasma TCO2 level shall not exceed 37.0 millimoles per liter in a nonfurosemide (non-Lasix) horse and not to exceed 39 mmol/L for a Furosemide (Lasix) horse.

**POST-RACE TESTING**

**§ 401.21. Refusal to submit to test.**

No owner, trainer or any other person having the care, custody or control of a horse, whether entered in a race or not, whether the horse participated in the race or not, may refuse to produce a horse for testing, if requested by the Judges or Stewards during the race meeting. This refusal by the horse's owner, trainer or other person having care, custody or control, shall be deemed a violation of these rules and subject the licensee to a penalty. The horse entered in the race shall be scratched by the Judges or Stewards.

**§ 401.22. Test barn.**

(a) A licensed racing entity shall provide and at all times maintain in good condition a designated test barn on the racetrack grounds which shall be considered a secured location.

(b) The test barn shall be of an appropriate size and sufficient to accommodate the safe stabling of horses temporarily detained for the taking of biologic samples and shall be structurally designed and constructed to prevent entry by unauthorized persons.

(c) The test barn shall be deemed a restricted area and under the internal supervision and control of the Commission Veterinarian. No access to individuals other than Commission personnel shall be permitted without permission of the Commission Veterinarian.

(d) Notwithstanding subsection (c), the owner, trainer or the trainer's representative, whose horse is in the test barn for sampling, may be present to witness the Commission's sampling process. Those individuals shall properly display their current Commission identification/license badge, and clearly identify the horse they are accompanying. The Commission Veterinarian or the race-track security may properly exclude any person or licensee that does not have a legitimate reason for being in the test barn area.

(e) The absence of the owner, trainer or trainer representative shall not invalidate the procedures followed in taking the sample, nor shall the absence be the grounds for objection to Commission action based on a laboratory report resulting from the test of a sample taken in the absence of the owner, trainer or their representative.

(f) Stable equipment other than that necessary for washing or cooling out a horse shall not be permitted in the test barn. Buckets and water shall be furnished by the Commission.



**§ 401.23. Reporting to the test barn.**

(a) The official winning horse and any other horse which participated in the race, as determined by Judges, Stewards or the Commission shall be selected to have blood, urine or other biological samples taken in accordance with the guidelines and procedures established by the Commission.

(b) Random or for cause testing may be required by the Judges or Stewards or the Commission at any time based upon reasonable suspicion of unlawful or violative conduct.

(c) Unless otherwise directed by the Judges or Stewards or the Commission Veterinarian, a horse that is selected for testing must be taken directly to the test barn and shall remain there until released by the Commission Veterinarian.

**§ 401.24. Primary sample collection.**

(a) The collection of blood, urine or other biological samples shall be done in accordance with the Commission's established procedures or other National guidelines or procedures approved by the Commission. In every event, "primary" and "split" portions of a sample shall always be taken at the same time and shall be of the same substance.

(b) Any combination or sufficient quantity of blood, urine or other biological samples, as determined by the Commission Veterinarian or the Commission, may be used by the Commission testing laboratory for purposes of testing for prohibited substances under this chapter. The election by the Commission testing laboratory to use one form of biological sample shall not be a basis to challenge the detection and confirmation of a prohibited substance in the tested horse.

(c) The Commission shall approve and provide the urine containers, blood sample receptacles and all other materials, plastic bags, evidentiary security/evidence tape and equipment necessary to properly identify, seal, secure and store the samples from the selected horses.

(d) The samples taken from a horse by the Commission Veterinarian or the Commission's test barn staff shall be collected in the appropriate number of containers and shall be designated as the primary and split samples. At least two blood samples for each horse shall be collected in sample receptacles approved by the Commission. These samples shall be sealed with tamper-proof tape and bear the specific identification tracking number associated with that horse and its samples.

(e) The Commission Veterinarian and testing barn staff shall create and properly maintain records of the sampling, evidentiary sealing and storing of the primary and split samples which shall be made a part of the Commission's chain of custody documentation for administrative hearing purposes.

(f) Once collected, sealed and documented, all primary samples shall be placed into locked refrigerators designated for storage of biological samples under the supervision of the Commission Veterinarian or the Commission's designee, to be safeguarded until the primary samples are packaged and shipped to the Commission testing laboratory for chemical analysis.

(g) At all times during the sampling, testing and administrative process, the Commission shall be considered the owner of the primary sample.

**§ 401.25. Storage of split samples.**

(a) In accordance with § 401.24 (relating to primary sample collection) the blood, urine or other biological

samples previously taken and designated as split samples shall be stored and maintained in a locked freezer in the test barn until an owner or trainer requests that the split samples be tested in accordance with the Commission's procedures.

(b) The freezer for storage of split samples shall be opened only for depositing or removing split samples, review of inventory or for checking the condition of the split samples. A log shall be maintained by the Commission Veterinarian or the Commission investigators and an entry shall be made each time the split sample freezer is opened to indicate the following:

- (1) Persons in attendance;
- (2) The purpose for opening the freezer;
- (3) Identification of split samples deposited or removed;
- (4) The date and time the freezer was opened or when was closed;
- (5) Verification that the lock was secured prior to and after opening of the freezer; and
- (6) Evidence of a malfunction, if any, of the split sample freezer.

(c) At all times, the Commission shall be considered the owner of the split sample.

(d) If the results of the split sample testing do not substantially confirm the findings by the Commission testing laboratory of the primary sample, the Commission will not consider the sample to constitute a prima facie violation of this chapter and no penalty will be imposed.

(e) If the Standardbred or Thoroughbred Bureau Directors declare a positive test based upon the reported findings of the Commission testing laboratory, it shall be considered to be a prima facie violation of the applicable provisions of this chapter and written and dated notification of the positive test shall be made to the trainer of record for the tested horse. The trainer shall be solely responsible to notify the owner of the horse of the positive test.

(f) Within 48 hours after receiving written notification of the positive test, the owner or trainer of the horse in question may request that the split sample be tested. The Commission may provide a form for a request which must be signed and dated by the owner or trainer. Failure by either the owner or trainer to make a timely request within 48 hours of notice of the positive shall constitute a waiver of the right to have the split sample tested. The findings of the primary sample by the Commission testing laboratory shall be deemed conclusive at any subsequent hearing.

(g) Upon application by the trainer or owner of the horse in question, the split portion of the sample taken shall be tested by a duly accredited laboratory designated and approved by the Commission under the minimum standards set forth in § 401.29 (relating to split sample testing laboratory minimum standards).

(h) If the Commission is unable to secure the services of a specific laboratory with the proper accreditation or testing methods to test the split portion of a sample, the Commission will have the option of having the split sample retested at the laboratory which tested the original sample. The owner and trainer affected will be notified by the Commission.

(i) If an act of God, power failure, accident, strike or other action prevents a retest from being made which is

beyond the control of the Commission, the results of the primary official test shall be accepted as prima facie evidence.

**§ 401.26. Packaging and shipping of split samples.**

(a) The Commission or its investigative staff shall be responsible for the packaging and shipping of the split sample and shall coordinate the time and location for the packaging of the split sample at the test barn with the owner, trainer or representative. The owner or trainer requesting testing of a split sample shall be responsible for the cost of the testing, including the cost of shipping.

(b) Failure of the owner, trainer or a designee to appear at the time and place designated by the Commission representative in connection with packaging and shipping the split sample shall constitute a waiver of any right to challenge Commission's procedures.

(c) Prior to opening the split sample freezer or refrigerator, the Commission's representative shall provide the split sample verification form or split sample packaging form or any other similar form approved by the Commission. The forms shall be completed fully during the retrieval, packaging and shipment of the split sample and shall contain the following information:

(1) The date and time the sample is removed from the split sample freezer;

(2) The sample number;

(3) The address where the split sample is to be sent; and,

(4) A check from the owner or trainer made payable to the split sample laboratory with the appropriate testing fee.

(d) The Commission representative shall remove the split sample from the freezer and shall package it in accordance with the packaging procedures directed by the Commission. All necessary Commission chain of custody forms shall be signed by the owner, trainer or other representative, if present, and the Commission representative to confirm the proper packaging of the split sample for shipment. The exterior of the package shall be secured and sealed to prevent tampering with the package.

(e) The owner, trainer or representative, if present, may inspect the package containing the split sample immediately prior to transfer to the delivery carrier to verify that the package is intact and has not been tampered with.

(f) Prior to shipment of the split sample, the Commission's representative shall confirm:

(1) That the split sample laboratory has agreed to provide the testing requested;

(2) That the split sample laboratory has agreed to send results to the Commission; and

(3) That arrangements for payment satisfactory to the split sample laboratory have been made.

**§ 401.27. Frozen samples.**

(a) The Commission from time to time may direct the Commission Testing Laboratory to retain and preserve by freezing samples for future analysis or research purposes.

(b) After 1 year from the date of sampling, the Commission may grant permission, at the request of the Commission Testing Laboratory, to properly dispose of primary samples which were determined to contain no prohibited substances or in the case of samples which

were determined as positive, after all administrative appeals have been exhausted.

(c) The distribution of purse money prior to the issuance of a final laboratory report shall not be considered a finding that no prohibited drug, medication, substance or metabolic derivative has been administered to a horse.

**§ 401.28. Commission Testing Laboratory minimum standards.**

(a) The purpose of the Commission Testing Laboratory is to analyze biologic samples for the presence in race horses of any drugs, medications, foreign substances or other substances including permitted medications in excess of the maximum allowable levels and to reports those findings to the Standardbred and Thoroughbred Horse Racing Bureau Directors.

(b) The Commission Testing Laboratory shall at all times continue to meet and maintain the minimum competency standards as set forth by National and International accrediting bodies such as the American Association of Laboratory Accreditation (A2LA) and the RMTTC or other similar accrediting bodies under the globally recognized ISO/IEC 17025 *General Requirements for the Competence of Testing and Calibration Laboratories*.

**§ 401.29. Split sample testing laboratory minimum standards.**

(a) The designated split sample testing laboratory (Split Lab) conducting split post-race sample analysis must, at a minimum, demonstrate technical competence in the field of chemical testing and laboratory quality management be meeting similar accreditation standards and testing standards as the Commission Testing Laboratory.

(b) The Commission shall provide a list of approved split sample laboratories for use.

**UNIFORM MEDICATION CLASSIFICATION AND PENALTIES**

**§ 401.41. Determination of positive test results.**

(a) If the Standardbred or Thoroughbred Bureau Directors declare a positive test based upon the reported findings of the Commission testing laboratory, and if applicable, the confirmation by the split sample laboratory, it shall be considered a possible violation of the provisions of this chapter. The Bureau Directors shall authorize and direct Commission investigators to immediately conduct an investigation of the matters relating to the positive finding. Medication and drug violations shall be investigated and reviewed on a case by case basis.

(b) The results of biological sample testing and analysis prepared by the Commission Testing Laboratory shall be deemed prima facie correct and all steps undertaken in the collection, preservation, handling and testing thereof shall be presumed correct in the absence of affirmative proof to the contrary.

(c) The Board of Judges or Board of Stewards shall thereafter schedule and conduct a hearing consistent with the provisions set forth in Chapter 179 (relating to Rules of Administrative Practice and Procedure—temporary regulations) of the Commission's regulations to determine whether a violation of the Commission's regulations has occurred. In addition to the penalty provisions contained in the act and the Commission's regulations, the Judges and Stewards may consider the specific drug classification level of the violation and the appropriate penalty categories as set forth in the *Uniform Classification Guidelines*

of *Foreign Substances* established by the ARCI and set forth in §§ 401.42 and 401.43 (relating to uniform classification guidelines for foreign substances; and positive test penalty categories).

(d) Prior to issuing the medication violation ruling, the Judges and Stewards, may also consult with the Commission Veterinarian to determine if the violation was a result of the administration of a therapeutic medication as documented in a veterinarian's Medication Report Form (treatment sheets) received under § 403.4 (relating to treatments sheets or veterinarian medication report forms) and may also consult with the Commission's Testing Laboratory director to determine the seriousness of the laboratory finding or the medication violation penalties.

(e) For purposes of determining mitigating or aggravating circumstances, the Judges and Stewards may consider the following factors:

(1) The past record of the trainer, veterinarian and owner in drug cases;

(2) The potential of the drugs to influence a horse's racing performance;

(3) The legal availability of the drug;

(4) Whether there is reason to believe the responsible party knew of the administration of the drug or intentionally administered the drug;

(5) The steps taken by the trainer to safeguard the horse;

(6) The probability of environmental contamination or inadvertent exposure due to human drug use;

(7) The purse of the race;

(8) Whether the drug found was one for which the horse was receiving a treatment as determined by the Medication Report Form;

(9) Whether there was any suspicious betting pattern in the race; and

(10) Whether the licensed trainer was acting on the advice of a licensed veterinarian.

(f) As a result of the investigation, the Judges or Stewards may determine that mitigating circumstances exist for which a lesser or no penalty is appropriate for the licensee or that aggravating factors exist, which may increase the penalty beyond the minimum.

(g) Whenever there is a positive result of a post-race test the purse may be redistributed.

**§ 401.42. Uniform classification guidelines for foreign substances.**

The Commission adopts the following outline which describes the types of medications, drugs and substances placed in each classification. This list shall be publicly posted on the Commission's web site, in the offices of the Commission Veterinarian and in the office of the racing secretary.

(1) *Class 1:*

Opiates, opium derivatives, synthetic opioids, psychoactive drugs, amphetamines, all United States Drug Enforcement Agency Schedule I drugs and many Schedule II drugs. Also found in this class are drugs that are potent stimulants of the central nervous system. Drugs in this class have no generally accepted medical use in the racing horse and their pharmacologic potential for altering the performance of a racing horse is very high.

(2) *Class 2:*

Drugs placed in this classification have a high potential for affecting the outcome of a race. Most are not generally accepted as therapeutic agents in the racing horse. Many are products intended to alter consciousness or the psychic state of humans and have no approved or indicated use in the horse. Some, such as injectable local anesthetics, have legitimate use in equine medicine, but should not be found in a racing horse. The following groups of drugs placed are in this class:

(i) Opiate partial agonists or agonist-antagonists;

(ii) Non-opiate psychotropic drugs. These drugs may have stimulant, depressant, analgesic or neuroleptic effects;

(iii) Miscellaneous drugs which might have a stimulant effect on the central nervous system (CNS);

(iv) Drugs with prominent CNS depressant action;

(v) Antidepressant and antipsychotic drugs, with or without prominent CNS stimulatory or depressant effects;

(vi) Muscle blocking drugs that have a direct neuromuscular blocking action;

(vii) Local anesthetics that have a reasonable potential for use as nerve blocking agents (except procaine); and

(viii) Snake venoms and other biologic substances, which may be used as nerve blocking agents.

(3) *Class 3:*

Drugs placed in this classification may or may not have an accepted therapeutic use in the horse. Many are drugs that affect the cardiovascular, pulmonary and autonomic nervous systems. They all have the potential of affecting the performance of a racing horse. The following groups of drugs are placed in this class:

(i) Drugs affecting the autonomic nervous system that do not have prominent CNS effects, but which do have prominent cardiovascular or respiratory system effects. Bronchodilators are included in this class;

(ii) A local anesthetic that has nerve blocking potential but also has a high potential for producing urine residue levels from a method of use not related to the anesthetic effect of the drug (procaine);

(iii) Miscellaneous drugs with mild sedative action, such as the sleep-inducing antihistamines;

(iv) Primary vasodilating/hypotensive agents;

(v) Potent diuretics affecting renal function and body fluid composition; and

(vi) Anabolic and/or androgenic steroids and other drugs.

(4) *Class 4:*

Drugs in this classification comprise primarily therapeutic medications routinely used in racing horses. These may influence performance, but generally have a more limited ability to do so. Groups of drugs assigned to this category include the following:

(i) Non-opiate drugs that have a mild central analgesic effect;

(ii) Drugs affecting the autonomic nervous system that do not have prominent CNS, cardiovascular or respiratory effects:



(A) Drugs used solely as topical vasoconstrictors or decongestants;

(B) Drugs used as gastrointestinal antispasmodics;

(C) Drugs used to void the urinary bladder;

(D) Drugs with a major effect on CNS vasculature or smooth muscle of visceral organs;

(E) Antihistamines which do not have a significant CNS depressant effect (This does not include H1 blocking agents, which are listed in Class 5);

(iii) Antihistamines that do not have a significant CNS depressant effect. (This does not include H2 blocking agents, which are in Class 5).

(iv) Mineralocorticoid drugs;

(v) Skeletal muscle relaxants;

(vi) Anti-inflammatory drugs. These drugs may reduce pain as a consequence of their anti-inflammatory action.

(A) Non-Steroidal Anti-Inflammatory Drugs (NSAIDs);

(B) Corticosteroids (glucocorticoids); and

(C) Miscellaneous anti-inflammatory agents.

(vii) Less potent diuretics;

(viii) Cardiac glycosides and antiarrhythmic agents.

(A) Cardiac glycosides;

(B) Antiarrhythmic agents (exclusive of lidocaine, bretylium and propranolol); and

(C) Miscellaneous cardiotoxic drugs.

(ix) Topical Anesthetics—agents not available in injectable formulations;

(x) Antidiarrheal drugs;

(xi) Miscellaneous drugs.

(A) Expectorants with little or no other pharmacologic action;

(B) Stomachics; and

(C) Mucolytic agents.

(5) *Class 5:*

Drugs in this classification are therapeutic medications for which concentration limits have been established by the racing jurisdictions as well as certain miscellaneous agents. Included specifically are agents that have very localized actions only, such as anti-ulcer drugs and certain antiallergenic drugs. The anticoagulant drugs are also included.

**§ 401.43. Positive test penalty categories.**

(a) To maintain consistency of drug medication penalties with surrounding racing jurisdictions, in accordance with section 9312(6) of the act (relating to additional powers of commission), the Commission shall adopt and publish in the *Pennsylvania Bulletin* the most recent version of the “Penalty Categories” set forth in the *Uniform Classification Guidelines of Foreign Substances* as established by ARCI. The penalty categories “A”, “B”, “C” and “D” and their related schedules for trainers and owners shall also contain provisions for the number of offenses committed which shall determine the level of penalty assessed.

(b) The Commission, Bureau Directors, Judges or the Stewards may use the penalty “categories” and medication guidelines schedule as a starting place in the penalty stage of the deliberations for a violation of the Commission’s medication and foreign substance rules.

(c) In issuing penalties against individuals found guilty of medication and drug violations, a regulatory distinction may be made between the detection of therapeutic medications used routinely to treat racehorses and those drugs that have no reason to be found at any concentration in the test sample on race day.

(d) If a licensed veterinarian is administering or prescribing a drug not listed in the ARCI *Uniform Classification Guidelines for Foreign Substances*, the identity of the drug shall be forwarded to the Commission Testing Laboratory for classification.

(e) A drug or metabolite thereof found to be present in a pre-race or post-race sample which is not classified in the most current ARCI *Uniform Classification Guidelines for Foreign Substances* shall be deemed Class 1 drug and the trainer and/or owner shall be subject to those penalties as set forth in schedule “A.”

(f) 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 or suspensions, or both.

(g) A licensee of the Commission, including practicing veterinarians, found to be responsible for the improper or intentional administration of any drug resulting in a positive test may, after proper notice and hearing, be subject to the same penalties set forth for the licensed trainer.

**§ 401.44. Criminal or administrative licensing referrals.**

(a) In addition to any penalties issued by the Judges, Stewards or the Commission, a veterinarian found to be involved in the administration of any drug carrying the penalty category of “A” shall be referred to the State Board of Veterinary Medicine for consideration of further disciplinary action or license revocation.

(b) In accordance with the provisions of the act, a person believed to have committed acts in violation of Pennsylvania criminal statutes may be referred to the appropriate law enforcement agency. Administrative action taken by the Judges, Stewards or the Commission shall not prohibit a prosecution for criminal acts committed, nor shall a criminal prosecution preclude the administrative action by the Judges, Stewards or the Commission.

(c) 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 shall include ensuring that horses are not transferred to licensed family members or employees of the suspended person.

**§ 401.45. Responsibility of a trainer.**

As fully set forth in Chapters 205 and 305 (relating to rules of Standardbred racing—temporary regulations; and rules of Thoroughbred racing—temporary regulations), a trainer shall be responsible for the condition of the horses in the care, custody or control of the trainer regardless of the trainer’s physical location.

**§ 401.46. Control of horse, presumption of knowledge.**

Whenever the chemical analysis test described in this chapter discloses the presence of a drug, stimulant, depressant or foreign substance or therapeutic medications above the established levels, it shall be presumed that the same was administered by the person having the

care, custody or control of the horse and that the administering was done with the intent to affect the speed or condition of the horse and the result of the race in which it participated.

**§ 401.47. Persons found guilty of administration of drugs.**

A person found guilty by the Commission of participation in or knowledge of that a narcotic, stimulant or similar illegal drug has been administered to a horse shall be summarily ruled off from all tracks in this Commonwealth and upon notice and hearing, the occupational license may be revoked.

**MULTIPLE MEDICATION VIOLATION POINT SYSTEM**

**§ 401.51. Multiple medication violation points.**

(a) A trainer, who receives a penalty for a medication violation based upon a horse testing positive for a Class 1—5 medication with a Category A—C penalty, as provided in the most recent version of the ARCI *Uniform Classification Guidelines for Foreign Substances*, or similar state regulatory guidelines, shall be assigned additional multiple medication violation (MMV) enhanced points as follows:

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

<sup>1</sup> 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.

(1) If the Standardbred or Thoroughbred Horse Racing Bureau Directors, or Judges and Stewards determine that the violation is due to environmental contamination, they may assign lesser or no points against the trainer based upon the specific facts of the case.

(b) The points assigned to a medication violation ruling by the Judges or Stewards shall be included in the trainer's Commission licensing records and forwarded to the ARCI official database or any other similar recordkeeping entity. MMV points shall be recorded consistent with subsection (a) including when appropriate, a designation that points have been suspended for the medication violation. Points assigned by the Judges' or Stewards' rulings shall reflect, in the case of multiple positive tests as described in subsection (d), whether they constitute a single violation. The Judges' or Stewards' rulings shall be posted on the Commission's official web site and the official database of the ARCI or other record keeping entity.

(1) If an appeal is pending, that fact shall be noted in the ruling.

(2) No enhancement points shall be applied until a final adjudication of the enforcement of any violation.

(c) A trainer's cumulative points for violations in all racing jurisdictions shall be maintained by the Commission, ARCI or other recordkeeping entities. Once all

appeals are waived or exhausted, the points shall immediately become part of the trainer's official Commission records, ARCI or other recordkeeping entity's records and shall be considered by the Commission in its determination to subject the trainer to the mandatory enhanced penalties by the Judges or Stewards as provided in this regulation.

(d) Multiple positive tests for the same medication incurred by a trainer prior to delivery of official notice by the Commission may be treated as a single violation. In the case of a positive test indicating multiple substances found in a single post-race sample, the Judges or Stewards may treat each substance found as an individual violation for which points will be assigned, depending upon the facts and circumstances of the case.

(e) The official database shall be used to advise the Judges, Stewards or Commission of the trainer's record of past violations and the cumulative MMV points. Nothing in this administrative regulation shall be construed to confer upon a licensed trainer the right to appeal a violation for which all remedies have been exhausted or for which the appeal time has expired as provided by applicable law.

(f) The Judges or Stewards shall consider all points for violations in all racing jurisdictions as contained in the trainer's official record when determining whether the mandatory enhancements provided in this regulation shall be imposed.

**§ 401.52. Enhancement points.**

(a) In addition to the penalty for the underlying offense, the following enhancements shall be imposed upon a licensed trainer based upon the cumulative points contained in his/her official ARCI record:

<i>Points</i>	<i>Suspension in days</i>
5—5.5	15 to 30
6—8.5	30 to 60
9—10.5	90 to 180
11 or more	180 to 360

(b) MMV penalties are not a substitute for the current penalty system and are intended to be an additional uniform penalty when the licensee:

(i) Has had more than one medication violation for the relevant time period; and

(ii) Exceeds the permissible number of points.

(c) The Stewards and Commission shall consider aggravating and mitigating circumstances, including the trainer's prior record for medication violations, when determining the appropriate penalty for the underlying offense. The MMV point system is intended to be a separate and additional penalty for a pattern of violations.

(d) The suspension periods as provided in subsection (a) shall run consecutively to any suspension imposed by the Judges or Stewards for the underlying offense.

(e) The Judges' or Stewards' ruling shall distinguish between the penalty for the underlying offense and any enhancement penalty based upon the Judges' or Stewards' review of the trainer's cumulative points and regulatory record, which may be considered an aggravating factor in a case.

§ 401.53. Expiration of points.

(a) Points shall expire as follows:

<i>Penalty Classification</i>	<i>Time to Expire</i>
A	3 years
B	2 years
C	1 year

(b) In the case of a medication violation that results in a suspension, any points assessed expire on the anniversary date of the date the suspension is completed.

**OTHER PROHIBITED CONDUCT**

§ 401.61. Possession of hypodermic needles, syringes and injectable substances.

No person, except a Commission Veterinarian, race-track veterinarian or veterinarian licensed by the Commission, may possess or use a hypodermic needle, hypodermic syringe capable of accepting a needle and injectable substances of any kind, type or description on the licensed racetrack grounds, in that person's custody, control or possession. If a person has a medical condition which makes it necessary to have a syringe while on the grounds of a racetrack, that person must request permission of the Judges or Stewards in writing, furnish a letter form a licensed physician explaining the necessity of the syringe and must comply with any conditions or restrictions set by the Judges or Stewards. Violations of this rule will subject the violator to a fine, suspension or both.

§ 401.62. Mistreatment of horses.

A licensee or other person under the jurisdiction of the Commission may not alone or in concert with another person permit an animal under his control to be subjected to a form of cruelty, mistreatment, neglect or abuse or abandon, or to injure, maim or kill or administer a noxious or harmful substance to or deprive an animal of necessary care, sustenance, shelter or veterinary care.

**CHAPTER 403. EQUINE VETERINARY PRACTICES—TEMPORARY REGULATIONS**

Sec.

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§ 403.1. General purpose.

To expressly set forth the professional duties, ethical obligations and procedures to be used by licensed equine veterinarians to ensure the health, safety and welfare of racehorses and to properly safeguard the integrity of racing, the interests of the general public and the participants in racing. In addition to the licensing requirements under Chapter 185 (relating to occupational licenses—temporary regulations) and §§ 303.71—303.73 (relating to practicing veterinarians) of the Commission's regulations, practicing veterinarians shall comply with the following provisions and requirements of this chapter and

with their professional duties and ethical obligations under their veterinary license.

§ 403.2. Role of practicing veterinarians.

(a) Veterinarians licensed by the Commission and practicing at any licensed racing facility under the jurisdiction of the Commission are under the authority of the Commission Veterinarian and the Board of Judges or Board of Stewards at that facility or other location.

(b) The following limitations apply to drug treatments of horses that are engaged in racing activities, including training, related to competing in pari-mutuel racing in this Commonwealth:

(1) No drug or other substance may be administered except in the context of a valid veterinarian-client-patient relationship between the attending veterinarian, the horse owner (who may be represented by the trainer or other agent) and the horse.

(2) The owner is not required by this subdivision to follow the veterinarian's instructions, but no drug may be administered without a veterinarian having examined the horse and provided the treatment recommendation. This relationship requires the following:

(i) The veterinarian, with the consent of the owner, has accepted responsibility for making medical judgments about the health of the horse;

(ii) The veterinarian has sufficient knowledge of the horse to make a preliminary diagnosis of the medical condition of the horse;

(iii) The veterinarian has performed an examination of the horse and is acquainted with the keeping and care of the horse;

(iv) The veterinarian is available to evaluate and oversee treatment outcomes, or has made appropriate arrangements for continuing care and treatment;

(v) The relationship is maintained by veterinary visits as needed;

(vi) The veterinarian's judgment is independent and not dictated by the trainer or owner of the horse; and,

(vii) The veterinarian maintains appropriate, substantial and pertinent records reflecting the treatment of the horses as previously set forth.

(c) No prescription drug or medication may be administered except as prescribed by an attending veterinarian and who shall provide copies of the prescriptions or orders to the Commission at all reasonable times.

(d) The trainer and veterinarian are both equally responsible to ensure compliance with these limitations on drug treatments of horses, except the medical judgment to recommend a drug treatment or to prescribe a drug is the responsibility of the veterinarian and the decision to proceed with a drug treatment that has been so recommended is the responsibility of the horse owner (who may be represented by the trainer or other agent).

§ 403.3. Treatment restrictions.

(a) Only licensed owners or trainers shall be permitted to authorize veterinary medical treatment of horses under the veterinarian's care, custody and control at a racetrack, licensed facility or other location under the jurisdiction of the commission.

(b) Except as otherwise provided by this subsection, no person other than a veterinarian licensed to practice veterinary medicine in this jurisdiction and licensed by the Commission may administer a prescription or con-



trolled medication, drug, chemical or other substance (including any medication, drug, chemical or other substance by injection) to a horse at any racetrack, facility or other location under the jurisdiction of the Commission.

(c) This subsection does not apply to the administration of the following substances except in approved quantitative levels, if any, present in post-race samples or as they may interfere with post-race testing:

(1) A recognized non-injectable nutritional supplement or other substance approved by the official veterinarian;

(2) A non-injectable substance on the direction or by prescription of a licensed veterinarian; or

(3) A non-injectable non-prescription medication or substance.

(d) No person, other than a veterinarian licensed by the Commission, shall use, transport or be in the care, control, custody or constructive possession of a hypodermic needle, syringe capable of accepting a needle or injectable substances of any kind on the licensed racetrack or grounds. The discovery of a hypodermic needle, syringe or injectable substance in shared locations such as tack rooms, lockers, stalls or stables shall be sufficient grounds for imposition of penalty on all licensees who use or control the previously listed locations. At all licensed racetracks or other locations under the jurisdiction of the Commission, veterinarians may use only a one-time (one-use) disposable syringe and needle and shall properly dispose of both into an appropriate container provided by the licensed racing entity or in a manner approved by the Commission.

(1) Except that, if a person has a medical condition which makes it necessary to have a syringe at any location under the jurisdiction of the Commission, that person must furnish a letter from a licensed physician explaining the need for the person to possess a syringe and must comply with any conditions and restrictions set by the Judges or Stewards or the Commission.

(e) Practicing veterinarians shall not have contact with an entered horse within 24 hours before the scheduled post time of the race in which the horse is scheduled to compete except for the administration of furosemide under the guidelines set forth in § 403.14 (relating to Furosemide (Lasix—Thoroughbred)) unless approved by the Commission Veterinarian. Any unauthorized contact may result in the horse being scratched from the race in which it was scheduled to compete and may result in further disciplinary action by the Stewards.

#### § 403.4. Treatment sheets or veterinarian medication report forms.

(a) Every veterinarian who treats a racehorse at any racetrack or other location under the jurisdiction of the Commission shall maintain an accurate and complete written log of treatment activities on a Medication Report Form or Treatment Sheet and report the treatment to the Commission office, the Stewards or Judges at the racetrack where the horse is entered to run or as otherwise specified by the Commission. The Treatment Sheet shall contain the following:

- (1) The name of the horse treated;
- (2) List of all medications, drugs, substances, or procedures administered or prescribed to the horse;
- (3) The name of the trainer of the horse;
- (4) The date and time of treatment;

(5) Indicate the route of administration on all meds and specific amounts administered; must list all oral medications left with trainers and indicate the horse's need for these oral medications;

(6) For all intra-articular injections, identify the exact location, body part, limb or joint on the horse of the injection and specific dosage amounts;

(7) Indicate whether the horse is entered to run; and

(8) Any other information that may be requested by the Commission veterinarian.

(b) The Medication Report Form or Treatment Sheet shall be signed and attested to by the practicing veterinarian under the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities), and may subject the practicing veterinarian to other administrative penalties as set forth in subsections (c)—(e).

(c) The Medication Report Form or Treatment Sheet must be filed by the treating veterinarian with the Commission office within 24 hours after treatment. The report/treatment sheet shall be deemed confidential and its contents shall not be disclosed to others, except:

(1) To the horse's owner or trainer of record at the time of treatment;

(2) To the Commission, or its designees in the course and scope of an investigation or in an administrative proceeding before the Stewards/Judges or the Commission; or

(3) To law enforcement officials conducting a criminal investigation relating to the treatment of horses.

(d) Failure of any practicing veterinarian to adhere to the previously listed provisions or to properly and timely provide the Medication Reports or Treatment Sheets to the Commission or its designee shall subject the practicing veterinarian to all applicable penalties, including fines or suspensions, as set forth in the act and the Commission's regulations.

(e) In addition to the above administrative penalties, the Commission, in its sole discretion, may refer any violation of subsections (a)—(d) by a licensed practicing veterinarian to the State Board of Veterinary Medicine or to criminal law enforcement entities for any action they may deem necessary and appropriate.

#### § 403.5. Prohibited substances and methods.

(a) The substances and methods listed in the Commission's Prohibited Substances List in § 403.9 (relating to prohibited substances list) may not be used at any place or time and may not be possessed on the premises of a licensed racetrack, licensed facility or other location under the jurisdiction of the Commission, except as a restricted therapeutic use. As the Prohibited Substances List is amended, the Commission shall publish the most recent version of the list in the *Pennsylvania Bulletin* and on its web site.

(b) *Restricted Therapeutic Use.* A limited number of medications on the Prohibited Substance List shall be exempted when the administration occurs in compliance with the Required Conditions for Restricted Therapeutic Use chart set forth in § 403.11 (relating to restricted therapeutic use requirements chart):

(1) *Report When Sampled* means the administration of the substance must be reported to the Commission when the horse is next sampled, if the horse is sampled within 24 hours after the administration;

(2) *Pre-File Treatment Plan* means a treatment plan for the substance which must be filed by the time of administration in a manner approved by the Commission;

(3) *Written Approval from Commission* means the Commission has granted written approval of a written treatment plan before the administration of the substance;

(4) *Emergency Use (report)* means the substance had to be administered due to an acute emergency involving the life or health of the horse, provided the emergency use is reported to the Commission as soon as practicable after the treatment occurs;

(5) *Prescribed by Veterinarian* means the substance has been prescribed by an attending veterinarian, in compliance with this chapter and recorded in the veterinary records in the manner required by the Commission;

(6) *Report Treatment* means the treatment must be reported to the Commission by the trainer at the time of administration to provide the Commission with information for the Veterinarian's List. The trainer may delegate this responsibility to the treating veterinarian, who shall make the report to the Commission when so designated; and

(7) *Other Limitations* means additional requirements that apply, such as a substance may be used in only fillies or mares or a horse that is administered a substance shall be reported immediately to the Commission and placed on the Veterinarian's List for a specific minimum period of time.

**§ 403.6. Blood doping substances or agents prohibited.**

(a) The possession or use, or both, of the following substances or of blood doping agents, including but not limited to those listed as follows, on the racetrack premises or other facility under the jurisdiction of the Commission is expressly forbidden:

- (1) Aminoimidazole carboxamide ribonucleotide (AICAR);
- (2) Darbepoetin;
- (3) Equine Growth Hormone;
- (4) Erythropoietin;
- (5) Hemopure®;
- (6) Myo-Inositol Trispyrophosphate (ITPP);
- (7) Oxyglobin®;
- (8) Thymosin beta;
- (9) Venoms or derivatives thereof; and
- (10) Thymosin beta.

(b) No person shall at any time administer any other doping agent to a horse, except under a valid therapeutic, evidence-based treatment plan.

(c) *Other doping agent* means a substance that is not listed in the Commission's Prohibited Substances List, has a pharmacologic potential to materially alter the performance of a horse, has no generally accepted medical use in the horse when treated, and is:

(1) Capable at any time of causing an action or effect, or both, within one or more of the blood, cardiovascular, digestive, endocrine, immune, musculoskeletal, nervous, reproductive, respiratory or urinary mammalian body systems; including but not limited to endocrine secretions and their synthetic counterparts, masking agents, oxygen carriers and agents that directly or indirectly affect or manipulate gene expression; but

(2) Not a substance that is considered to have no effect on the physiology of a horse except to improve nutrition or treat or prevent infections or parasite infestations.

(d) The Commission may from time to time publish advisory warnings in the *Pennsylvania Bulletin* that certain substances or administrations may constitute a violation of this rule.

(e) *Therapeutic, evidence-based treatment plan* means a planned course of treatment written and prescribed by an attending veterinarian before the horse is treated that:

(1) Describes the medical need of the horse for the treatment, the evidence-based scientific or clinical justification for using the doping agent, and a determination that recognized therapeutic alternates do not exist; and

(2) Complies with this chapter, meets the standards of veterinary practice within this Commonwealth and is developed in good faith to treat a medical need of the horse.

(f) These plans shall not authorize the possession of a doping agent or substance on the premises of a licensed racetrack or other racing facility under the jurisdiction of the Commission.

**§ 403.7. Extracorporeal shock wave therapy or radial pulse wave therapy.**

(a) The use of Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy ("shock wave therapy") or other acoustic wave high energy, high amplitude devices, therapies, treatments or similar mechanisms, devices or treatments shall not be permitted unless the following conditions are satisfied:

(1) Only licensed veterinarians are permitted to use the preferred types of Extracorporeal shock wave devices or perform therapies and treatments on a horse as previously defined;

(2) Only licensed veterinarians are permitted to possess or use any instrument used to administer or deliver shock wave therapy on the licensed racetrack grounds or other facility under the jurisdiction of the Commission;

(3) All shock wave therapy machines or devices, whether in operating condition or not, must be registered with and approved by the Commission or its designee before the machine is brought to or possessed on any racetrack or other facility under the jurisdiction of the Commission;

(4) All shock wave therapy machines must be reported and registered within 24 hours prior to treatment on the prescribed form to the Commission veterinarian.

(5) All shock wave therapy machines must be used at a previously-disclosed location that is approved by the Commission. Commission investigative staff shall be granted access to any location housing a registered shock wave therapy machine of any type.

(b) Shock wave therapy cannot be administered to any horse entered in a race. If a horse is entered, shock wave therapy cannot be administered until that horse has been scratched from the race. If shock wave therapy is administered to a horse entered in a race, but which has not been scratched, both the trainer and veterinarian shall be in violation of this section.

(c) Any horse treated with shock wave therapy shall, within 24 hours of the treatment, be placed on the Veterinarian's List and added to a list of ineligible horses. This list shall be kept in the race secretary's office and accessible to the jockeys, drivers, trainers or their agents

during normal business hours and be made available to other regulatory jurisdictions.

(d) No horse treated with shock wave therapy shall be permitted to qualify, breeze or race for a minimum of 10 days following treatment with the day one beginning on the day the therapy was administered.

(e) Within 24 hours of administering shock wave therapy, the treating veterinarian shall submit a written report/treatment sheet detailing the treatment information and horse and trainer's name to the Commission Veterinarian.

(f) Any owner, trainer, veterinarian or other person who performs, participates in the use, treatment or administration of shock wave therapy or who is in the possession or control of an unregistered shock wave therapy machine in violation of this section shall be considered to have committed a violation of the rules of racing and is subject to the penalties and fines set forth in section 9325 (relating to power of commission to impose fines) of the act, the applicable penalty matrix as adopted and published by the Commission or under the ARCI Class A Penalty provisions.

(1) Penalties assessed against an owner, trainer, veterinarian or other person for violation of this section shall be individually assessed against each violator.

(2) A person directing another to violate this section shall be subject to the same penalties as the offender.

#### § 403.8. Nasogastric tube.

The use of a nasogastric tube (a tube longer than 6 inches) for the administration of any substance within 24 hours prior to the post time of the race in which the horse is entered is prohibited, unless performed by a licensed practicing veterinarian and properly logged in a medical report/treatment sheet in accordance with this chapter.

#### § 403.9. Prohibited substances list.

(a) All substances in the following categories of drugs shall be strictly prohibited, unless otherwise exempted by the Commission in accordance with the provisions of this chapter: non-approved substances; anabolic agents/steroids; growth hormones; hormone and metabolic modulators; diuretics and other masking agents. The Prohibited Substance List is a comprehensive list of those prohibited substances. Since the Prohibited Substance List, as established by the ARCI is subject to frequent review, amendment or modification, the Commission shall annually notify the regulated community and publish the Prohibited Substance List in the *Pennsylvania Bulletin* and on its web site.

(b) In accordance with section 9312(6) (relating to additional powers of commission) of the act, the Commission is authorized to adopt National standards relating to prohibited substances, uniform drug thresholds or penalties, which includes the Prohibited Substance List, as established or amended by other racing jurisdictions or commission-recognized National regulatory racing organizations, such as ARCI or the USTA.

#### § 403.10. Prohibited manipulation of blood and blood components.

(a) The following conduct or manipulation is expressly prohibited:

(1) The administration or reintroduction of any quantity of autologous, allogenic (homologous) or heterologous blood or red blood cell products of any origin into the circulatory system.

(2) Artificially enhancing the uptake, transport or delivery of oxygen, including, but not limited to, perfluorochemicals, efaproxiral (RSR13) and modified hemoglobin products (for example hemoglobin-based blood substitutes, microencapsulated hemoglobin products), excluding supplemental oxygen.

(3) Any form of intravascular manipulation of the blood or blood components by physical or chemical means.

(b) The chemical and physical manipulation, tampering or attempt to tamper, to alter the integrity and validity of samples collected by the Commission, is prohibited. These methods include but are not limited to urine substitution or adulteration (for example, proteases).

(c) Gene doping or any similar conduct with the potential to enhance the horse's performance, is prohibited, including the transfer of polymers of nucleic acids or nucleic acid analogues or the use of normal or genetically modified hematopoietic cells.

#### § 403.11. Restricted therapeutic use requirements chart.

(a) The Commission hereby adopts the ARCI Restricted Therapeutic Use Requirements Chart (Chart) which is intended to provide the treating veterinarian with specific conditions and approvals for the therapeutic use of what are normally restricted or prohibited substances. The Chart identifies the particular prohibited substance and whether the veterinarian must prefile the treatment plan with the Commission and which substances require written approval from the Commission. The Chart provides for instances of emergency use of prohibited substances as prescribed by the treating veterinarian.

(b) In accordance with section 9312(6) (relating to additional powers of commission) of the act, the Commission is authorized to adopt National standards relating to prohibited substances, uniform drug thresholds or penalties, which includes the Chart, as established or amended by other racing jurisdictions or Commission-recognized National regulatory racing organizations, such as ARCI or the USTA. The Commission shall provide notice to the regulated community and publish the Chart in the *Pennsylvania Bulletin* and on the Commission's web site.

#### § 403.12. Medical labeling.

(a) While on racetrack grounds and facilities, no person shall have or be in possession of a drug, medication, chemical, foreign substance or other substance that is prohibited in a horse on a race day, unless the product is labeled in accordance with this subsection. Possession shall be deemed to include any location in and upon the racetrack grounds which that person occupies or has the right to occupy or is in that person's personal property or effects or in any vehicle in that person's care, custody or control.

(b) All allowable medications must have a prescription label which is securely attached to the medication container and clearly ascribed to show the following:

(1) Name, address and telephone number of the pharmacy or veterinarian dispensing the medication;

(2) Prescription number when dispensed by a pharmacy if required by law;



- (3) Date prescription filled;
- (4) Name of the prescribing veterinarian;
- (5) Name of the horse for whom the medication is prescribed or dispensed;
- (6) Name of the trainer or owner of the horse for whom the product was dispensed;
- (7) Dose, dosage, route of administration, and duration of treatment of the prescribed product (instructions for use);
- (8) Name, active ingredient, quantity prescribed, expiration date (if applicable), beyond use date (if applicable), and lot number (if applicable); and
- (9) Cautionary statements (if any), and if applicable, withdrawal time.

(c) The use and possession of an expired medication is considered a violation of this rule.

(d) Any medication that has a label that is missing, illegible, tampered with or altered, or in any other way does not comply with this section shall be considered a violation of these rules.

(e) A licensee who voluntarily surrenders any non-compliant medication shall not be considered to be in violation of the medication rules described in this section. A surrender shall not be deemed voluntary after a licensee has been advised or it is apparent that an investigatory search has begun.

(f) Licensed practicing veterinarians shall be exempt from this section.

**§ 403.13. Non-steroidal anti-inflammatory drugs.**

The use of Non-Steroidal Anti-Inflammatory drugs (NSAID) shall be governed by the following conditions:

(a) NSAIDs included in the Commission's annually approved Controlled Therapeutic Medication List are not to be used in a manner inconsistent with the restrictions contained therein. NSAIDs not included on the Commission's Controlled Therapeutic Medication List are not to be present in a racing horse biological test sample at the laboratory concentration of detection.

(b) The presence of more than one NSAID may constitute a NSAID stacking violation consistent with the following restrictions:

(1) A Class 1 NSAID Stacking Violation (Penalty Class B) occurs when:

(i) Two Non-Steroidal Anti-Inflammatory drugs are found at individual levels determined to exceed the following restrictions:

- (a) Diclofenac—5 nanograms per milliliter of plasma or serum;
- (b) Firocoxib—20 nanograms per milliliter of plasma or serum;
- (c) Flunixin—20 nanograms per milliliter of plasma or serum;
- (d) Ketoprofen—2 nanograms per milliliter of plasma or serum;
- (e) Phenylbutazone—2 micrograms per milliliter of plasma or serum; or

(f) All other Non-Steroidal Anti-Inflammatory drugs—laboratory concentration of detection.

(ii) Three or more Non-Steroidal Anti-Inflammatory drugs are found at individual levels determined to exceed the following restrictions:

- (a) Diclofenac—5 nanograms per milliliter of plasma or serum;
- (b) Firocoxib—20 nanograms per milliliter of plasma or serum;
- (c) Flunixin—3 nanograms per milliliter of plasma or serum;
- (d) Ketoprofen—1 nanograms per milliliter of plasma or serum;
- (e) Phenylbutazone—0.3 micrograms per milliliter of plasma or serum; or
- (f) All other Non-Steroidal Anti-Inflammatory drugs—laboratory concentration of detection.

(2) A Class 2 NSAID Stacking Violation (Penalty Class C) occurs when:

(i) Any one substance noted in subsection (b)(1) is found in excess of the restrictions contained therein in combination with any one of the following substances at levels below the restrictions so noted but in excess of the following levels:

- (a) Flunixin—3 nanograms per milliliter of plasma or serum;
- (b) Ketoprofen—1 nanogram per milliliter of plasma or serum; or
- (c) Phenylbutazone—0.3 micrograms per milliliter of plasma or serum.

(3) A Class 3 NSAID Stacking Violation (Penalty Class C, fines only) occurs when:

(i) Any combination of two of the following Non-Steroidal Anti-Inflammatory drugs are found at or below the restrictions in subsection (b)(1)(i), but in excess of the noted restrictions:

- (a) Flunixin—3 nanograms per milliliter of plasma or serum;
- (b) Ketoprofen—1 nanogram per milliliter of plasma or serum;
- (c) Phenylbutazone—0.3 micrograms per milliliter of plasma or serum;
- (c) Any horse to which a NSAID has been administered shall be subject to having a blood or urine samples, or both, taken at the direction of the Commission Veterinarian to determine the quantitative NSAID levels or the presence of other drugs, or both, which may be present in the blood or urine samples.

**§ 403.14. Furosemide (Lasix—Thoroughbred).**

(a) The Commission recognizes that the diuretic Furosemide (Lasix) is helpful in the management of Exercise Induced Pulmonary Hemorrhage (EIPH). In regulating the race-day use of Furosemide (Lasix), the Commission has placed strict controls on the dose, route and time the medication is administered. All of these measures are designed to provide a thorough regulation of Furosemide (Lasix) and prevent the misuse of the drug.

(b) A horse is eligible to race with Furosemide (Lasix) if at least one of the following occurs:

(1) The horse is on the Commission's Furosemide (Lasix) list and has complied with the provisions of subsection (c);

(2) The horse is on the Commission's Bleeder List and has complied with the provisions of subsection (d);

(3) The trainer provides the Commission Veterinarian or the designee with evidence that the horse is on the Furosemide (Lasix) list or the Bleeder List in another jurisdiction. Acceptable evidence shall be a furosemide or bleeder certificate approved by that jurisdiction's official veterinarian.

(4) The trainer provides the Commission Veterinarian or the designee with evidence that the horse has been running consistently, up to the last start, with Furosemide (Lasix) in other racing jurisdictions as shown on official past performance records from Equibase or Racing Form.

(c) *Furosemide (Lasix) list*—Furosemide (Lasix) shall be administered to a horse that is entered to race only after the Commission Veterinarian has placed the horse on the Furosemide (Lasix) list. To be placed on the Furosemide (Lasix) list the following process shall be followed:

(1) After the horse's licensed trainer and licensed veterinarian determine that it would be in the horse's best interests to race with Furosemide, the trainer or licensed veterinarian shall notify the Commission Veterinarian or designee using the prescribed form, requesting that the horse be placed on the Furosemide (Lasix) list.

(2) The form must be received by the official veterinarian or his/her designee by the proper time deadlines to ensure public notification.

(3) A horse placed on the official Furosemide (Lasix) list must remain on that list unless the licensed trainer and licensed veterinarian submit a written request to remove the horse from the list. The request must be made to the Commission Veterinarian or designee, on the proper form, no later than the time of entry.

(4) After a horse has been removed from the Furosemide (Lasix) list, the horse may not be placed back on the list for a period of 60 calendar days unless it is determined to be detrimental to the welfare of the horse, in consultation with the official veterinarian. If a horse is removed from the official Furosemide (Lasix) list a second time in a 365-day period, the horse may not be placed back on the list for a period of 90 calendar days.

(d) *Bleeder List*—To obtain approval for the administration of Furosemide (Lasix), the horse shall be placed on a bleeder list which shall be maintained by the Commission Veterinarian. An up-to-date Bleeder List shall be maintained and posted in the racing secretary's office by the Commission. Only the following horses shall be placed on the Bleeder List:

(1) External evidence of exercised induced pulmonary hemorrhage from one or both nostrils during or after a race or workout, as observed by a Commission's Veterinarian;

(2) Internal evidence of exercised induced pulmonary hemorrhage by means of endoscopy reported by a licensed practicing veterinarian on a Commission approved form.

(3) A confirmed bleeder, regardless of age, shall be placed on the Bleeder List and be ineligible to race for the following time periods:

(i) First incident—14 days;

(ii) Second incident within 365-day period—30 days;

(iii) Third incident within 365-day period—180 days;

(iv) Fourth incident within 365-day period—barred for racing lifetime.

(4) Once a horse is placed on the bleeder list, it must continue to race with Furosemide (Lasix) unless the removal from the list is approved by the Commission Veterinarian. The horse may be removed from the bleeder list upon written request of the trainer, if the horse's performance is negatively affected by the use of Furosemide (Lasix) or if the horse has an adverse physiological reaction to Furosemide (Lasix).

(i) Prior to removal, the horse must perform a workout, without bleeding, to the satisfaction of the Commission Veterinarian. The Commission Veterinarian may witness an endoscopic examination of the horse to confirm that the horse has not bled.

(ii) Once removed from the bleeder list, a thoroughbred horse shall be ineligible to participate in a race for a minimum of 30 days. Prior to starting in a race, a horse must participate without Furosemide (Lasix) in official workout without bleeding, to the satisfaction of the Commission Veterinarian.

(e) Furosemide (Lasix) shall be the only authorized bleeder medication and shall only be administered on the licensed racetrack grounds.

(1) The use of Furosemide (Lasix) shall be permitted under the following circumstances on association grounds where a detention barn is utilized:

(i) Furosemide (Lasix) shall be administered by the official veterinarian, the racing veterinarian or a properly appointed designee no less than four hours prior to post time for the race for which the horse is entered;

(ii) Any veterinarian participating in the administration process must be prohibited from working as private veterinarians on the race track or with participating licensees;

(iii) A horse qualified for Furosemide (Lasix) administration must be brought to the detention barn within time to comply with the 4-hour administration requirement.

(iv) The dose administered shall not exceed 500 mg. nor be less than 150 mg.

(v) Furosemide (Lasix) shall be administered by a single, intravenous injection.

(2) After treatment, the horse shall be required by the Commission to remain in the detention barn in the care, custody and control of its trainer or the trainer's designated representative under association or Commission security supervision, or both, until called to the saddling paddock.

(3) The use of Furosemide (Lasix) shall be permitted under the following circumstances on association grounds where a detention barn is not utilized:

(i) Furosemide (Lasix) shall be administered by the official veterinarian, the racing veterinarian or his/her designee no less than 4 hours prior to post time for the race for which the horse is entered.

(ii) Any veterinarian participating in the administration process must be prohibited from working as private veterinarians or technicians on the race track on or with participating licensees;

(iii) The Furosemide (Lasix) dosage administered shall not exceed 500 mg., nor be less than 150 mg.

(iv) Furosemide (Lasix) shall be administered by a single, intravenous injection.

(v) After treatment, the horse shall be required by the Commission to remain in the proximity of its stall in the care, custody and control of its trainer or the trainer's designated representative under general association and/or Commission security surveillance until called to the saddling paddock.

(f) In the event a horse listed on the Furosemide (Lasix) list races without Furosemide (Lasix), the horse shall be disqualified and any purse money earned by the horse redistributed. The Stewards may impose a fine, suspension, or both, upon the trainer or veterinarian.

(g) Test results must show a detectable concentration of the drug in the post-race serum, plasma or urine sample.

(1) The specific gravity of post-race urine samples may be measured to ensure that samples are sufficiently concentrated for proper chemical analysis. The specific gravity shall not be below 1.010. If the specific gravity of the urine is found to be below 1.010 or if a urine sample is unavailable for testing, quantitation of furosemide in serum or plasma shall be performed;

(2) Quantitation of Furosemide (Lasix) in serum or plasma shall be performed when the specific gravity of the corresponding urine sample is not measured or if measured below 1.010. Concentrations may not exceed 100 nanograms of Furosemide (Lasix) per milliliter of serum or plasma.

(h) The practicing veterinarian shall be responsible for administering the proper Furosemide (Lasix) medication and dose at the proper time to the proper horse and providing the Commission or its staff, upon request, with any necessary documentation related to the horses under the veterinarian's care relating to Furosemide (Lasix).

**§ 403.15. Furosemide (Lasix—Standardbred).**

(a) The Commission recognizes that the diuretic Furosemide (Lasix) is helpful in the management of Exercise Induced Pulmonary Hemorrhage (EIPH) in the standardbred horse. Accordingly, 2-year-old harness horses or older shall be eligible for bleeder medication as set forth below. In regulating the race-day use of Furosemide (Lasix), the Commission has placed strict controls on the dose, route and time the medication is administered. All of these measures are designed to provide a thorough regulation of Furosemide (Lasix) and prevent the misuse of the drug.

(b) A horse is eligible to race with Furosemide (Lasix) if at least one of the following occurs:

(1) The horse is on the Commission's bleeder's list and the Judge's list in accordance with the following provisions;

(2) The trainer provides the Commission Veterinarian or the designee with evidence that the horse is on the Furosemide (Lasix) list or the bleeder list in another jurisdiction. Acceptable evidence shall be a Furosemide (Lasix) or bleeder certificate approved by that jurisdiction's official veterinarian.

(3) The trainer provides the Commission Veterinarian or the designee with evidence that the horse has been running consistently, up to the last start, with Furosemide (Lasix) in other racing jurisdictions as shown on official past performance records from the USTA, Equibase or the Racing Form.

(c) A horse shall be placed on the bleeder's list by either method:

(1) Blood visualized or noted in one of the nostrils (no endoscopic exam required), if:

(i) During a race or qualifier;

(ii) Immediate post-race or post exercise on track;

(iii) Post-race or post exercise in paddock or stable area, or both, within a reasonable time;

(iv) After training at a horse facility and confirmed by a licensed veterinarian within this Commonwealth.

(2) Endoscopic examination may be requested by the owner or trainer who believes his or her horse is a bleeder. The endoscopic examination must be done by a licensed veterinarian within this Commonwealth and at the owner's/trainer's expense. This examination shall take place within a reasonable length of time at:

(i) Post race in paddock.

(ii) Post training exercise in paddock.

(iii) Post training at a horse facility.

(d) Any owner or trainer that intends to race a horse within the Furosemide (Lasix) Program (Program) is required to submit the proper certificate completed by a licensed veterinarian within this Commonwealth no later than the time of entry to the Judges. This information shall be entered into the USTA database.

(e) Once a horse is certified as a "bleeder" that horse may not race for a period of 6 days beginning the day after the examination was performed.

(f) Test results must show a detectable concentration of the drug in the post-race serum, plasma or urine sample or it will be considered a positive.

(g) Once on the Program the horse must stay on the Program for a minimum on 45 days within this Commonwealth.

(h) If after the 45 days the owner/trainer want to remove said horse from the Program, a licensed veterinarian, must perform an endoscopic examination after a qualifying race to confirm no evidence of bleeding and a blood sample must be pulled and tested to confirm Furosemide (Lasix) was not administered. The owner/trainer must then submit the proper forms to the Judges prior to entry to remove the said horse from the Program.

(i) If a horse bleeds through regardless of Furosemide (Lasix) administration, then the horse shall be placed on the Judges' List:

(1) First time 30 days;

(2) Second time 60 days;

(3) Third time barred for life.

(j) *Out-of-State entries.* At the time of entry of a horse, it is the sole responsibility of the horse's owner/trainer to provide the racing secretary, the Judges and Commission Veterinarian with the horse's bleeder medication status on the entry form, including the first time bleeder certificate when coming from out of this Commonwealth.

(k) Furosemide (Lasix) shall be administered by a licensed veterinarian under the supervision of the Commission representative no less than 2cc's (100mg) nor more than 10cc's (500mg). Horses must arrive in the paddock no less than 4 hours prior to their scheduled post time to receive their Furosemide (Lasix) medication. A 30-minute grace period will be granted but the trainer



may be subject to a fine. No horse shall receive Furosemide (Lasix) medication after the 30-minute grace period.

(l) All associations shall provide a secure retention facility for the administration of the Program. The trainer, or his/her authorized representative with a valid license, shall remain with the horse from the time of its arrival in the retention facility until the horse is removed after receiving Furosemide (Lasix) or scratched. During the horse's time in the retention facility the trainer or authorized person shall provide assistance when required by the licensed veterinarian who is administering the Furosemide (Lasix) medication.

(m) *Late for Furosemide (Lasix)*: Trainers not presenting horses who are on the Program within the required time frame shall be subject to a fine of \$250 and having their horse scratched from the race.

(n) Test results must show a detectable concentration of the drug in the post-race serum, plasma or urine sample.

(1) The specific gravity of post-race urine samples may be measured to ensure that samples are sufficiently concentrated for proper chemical analysis. The specific gravity shall not be below 1.010. If the specific gravity of the urine is found to be below 1.010 or if a urine sample is unavailable for testing, quantitation of Furosemide (Lasix) in serum or plasma shall be performed;

(2) Quantitation of Furosemide (Lasix) in serum or plasma shall be performed when the specific gravity of the corresponding urine sample is not measured or if measured below 1.010. Concentrations may not exceed 100 nanograms of furosemide per milliliter of serum or plasma.

(o) The practicing veterinarian shall be responsible for administering the proper Furosemide (Lasix) medication and dose at the proper time to the proper horse and providing the Commission or its staff, upon request, with any necessary documentation related to the horses under the veterinarian's care relating to Furosemide (Lasix).

**§ 403.16. Environmental contaminants and substances of human use.**

(a) Environmental contaminants are either endogenous to the horse or can arise from plants traditionally grazed or harvested as equine feed or are present in equine feed because of contamination during the cultivation, processing, treatment, storage or transportation phases.

(b) Substances of human use and addiction may be found in the horse due to its close association with humans.

(c) If probative and substantial evidence is presented to the Bureau Directors prior to a hearing or presented to the Judges or Stewards during a hearing which indicates that a positive test may have been a result of environmental contamination, including inadvertent exposure due to human drug use, or dietary intake, or is endogenous to the horse, those factors may be considered in mitigation of any disciplinary action taken against the affected trainer.

**§ 403.17. Androgenic-anabolic steroid (AAS).**

(a) As set forth in the Commission's regulations, no Androgenic-anabolic steroid (AAS) shall be permitted in test samples collected from racing horses except for endogenous concentrations of the naturally occurring substances boldenone, nandrolone and testosterone at concentrations less than the approved thresholds.

(b) Concentrations of these AAS shall not exceed the following free (that is, not conjugated) steroid concentrations in plasma or serum:

(1) *Boldenone*—A confirmatory threshold not greater than 25 picograms/milliliter for all horses, regardless of sex;

(2) *Nandrolone*—A confirmatory threshold not greater than 25 picograms/milliliter for fillies, mares and geldings; male horses other than geldings shall be tested for Nandrolone in urine;

(3) *Testosterone*—A confirmatory threshold not greater than 100 picograms/milliliter for fillies, mares and gelding.

(c) Total concentrations of these AAS shall not exceed the following total concentrations in urine after hydrolysis of conjugates:

(1) *Boldenone*—A confirmatory threshold not greater than 1 nanogram/milliliter for fillies, mares and geldings; a confirmatory threshold not greater than 15 nanograms/milliliter in male horses other than geldings;

(2) *Nandrolone*—A confirmatory threshold not greater than 1 nanogram/milliliter for fillies, mares and geldings; a confirmatory threshold not greater than 45 nanograms/milliliter (as 5 $\alpha$ -estrane-3 $\beta$ ,17 $\alpha$ -diol) of urine in male horses other than geldings;

(3) *Testosterone*—A confirmatory threshold of not greater than 55 nanograms/milliliter of urine in fillies and mares (unless in foal); a confirmatory threshold of not less than 20 nanograms/milliliter in geldings.

(d) All other AAS are expressly prohibited in racing horses.

(e) The sex of the horse must be identified to the Commission's testing laboratory on all pre-race and post-race samples designated for anabolic steroid testing.

(f) If an anabolic steroid has been administered to a horse to assist in its recovery from illness or injury, that horse shall be placed on the Veterinarian's List to monitor the concentration of the drug or metabolite in urine or blood. After the concentration has fallen below the designated threshold for the administered AAS, the horse shall be eligible to be removed from the list.

**§ 403.18. Compounded medications on racetrack grounds.**

(a) The possession or use of any drug, substance, or medication on the licensed racetrack grounds which has not been approved by the appropriate Federal agency (for example, the United States Food and Drug Administration) for use in humans or animals is forbidden without prior approval from the Commission or its designee.

(b) It is a violation of this regulation to possess, use, or distribute a compounded medication on licensed racetrack grounds if there is an FDA approved equivalent of that substance available for purchase. A difference in available formulations or concentrations does not alleviate the need to use FDA approved products.

(c) It is a violation of this regulation to possess, use or distribute a compounded medication on licensed racetrack grounds made from bulk substances, if an FDA approved equivalent is available for purchase.

(d) Combining two or more substances with pharmacologic effect constitutes the development of a new drug and is prohibited. This may only be done in accordance with state and local laws and must contain FDA approved medications, if available.

(e) *Compounded veterinary drugs.* Veterinary drugs shall be compounded in accordance with all applicable state and Federal laws. Compounded medication shall be dispensed only by prescription issued by a licensed veterinarian to meet the medical needs of a specific horse and for use only in that specific horse.

(f) All compounded medications must be labeled in accordance with § 403.12 (relating to medical labeling).

(g) Possession of an improperly labeled product by any person on the licensed racetrack grounds is considered a violation of this section and may subject the person to a penalty.

**CHAPTER 405. OUT-OF-COMPETITION TESTING PROGRAM—TEMPORARY REGULATIONS**

Sec.	
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**§ 405.1. General purpose.**

The purpose of this chapter is to ensure the health, safety and welfare of racehorses and to properly safeguard the integrity of racing, the interests of the general public and the participants in racing by testing racehorses for performance enhancing substances that may not otherwise be detected with post-race testing and to deter the illegal use of these substances.

**§ 405.2. Out-of-competition testing authorization.**

(a) Under the statutory authority set forth in act, the Commission may, at any reasonable time, on any reasonable date draw blood, urine or other biologic samples as authorized by Commission rules from a horse to enhance the ability of the Commission to enforce its medication and anti-doping rules. All these samples shall be the property of the Commission.

(b) This rule authorizes only the collection and testing of samples and does not independently make impermissible the administration to or presence in any horse of any drug or other substance.

(c) A race day prohibition or restriction of a substance by a Commission rule is not applicable to an out-of-competition test unless there is an attempt to race the horse in a manner that violates this rule.

**§ 405.3. Horses eligible to be tested.**

(a) Any horse that has engaged in racing activities, including training and competing in horse racing in this Commonwealth is eligible to be selected for random testing, as set forth below. This shall include, without limitation, any horse which is located, stabled or trained outside of this Commonwealth in preparation to participate in racing within this Commonwealth.

(b) A horse is presumed eligible for out-of-competition testing if:

(1) It is on the grounds of a racetrack or horse facility within this Commonwealth. If the trainer of record or a designee of the selected horse is not available, the trainer will be given 24 hours to produce the specified horses at the designated racetrack or location for samples to be taken.

(2) It is under the care or control of a trainer licensed by the Commission;

(3) It is owned by an individual owner or ownership group or partnership duly licensed by the Commission;

(4) It is entered or nominated to race at a racetrack or other facility licensed by the Commission;

(5) It has raced within the previous 12 months at a racetrack or other facility licensed by the Commission; or

(6) It is nominated to a program based on racing in this jurisdiction, including a thoroughbred breeder's award race, or standardbred sire stakes race.

(c) The presumption of eligibility to be tested, as previously set forth, is conclusive in the absence of evidence that the horse is not engaged in racing activities relating to competing in horse racing within this Commonwealth.

**§ 405.4. Selection of horses to be tested.**

Horses shall be selected for random sampling by the breed specific Bureau Director, or a designee of the Bureau Director. Selection of horses to be sampled and tested may be based upon any of the following:

(1) Reasonable suspicion or probable cause based upon gathered intelligence or investigation;

(2) The seizure of illegal medication, drugs or paraphernalia in the custody, control or possession of the horse's owner, trainer or groom;

(3) An enumerated "condition" of licensure;

(4) Past medication or drug violations;

(5) Documented changes in the horses performances; or

(6) Horses entered in Stakes Races in Pennsylvania.

**§ 405.5. General procedures for collecting samples.**

(a) Upon request, the Commission Veterinarian, Commission investigators and any other person designated to take samples for the Commission shall provide proper identification and disclose the purpose of the sampling to the owner, trainer or designated attendant of the horse.

(b) All samples shall be collected by and under the supervision and direction of a Commission Veterinarian or other persons duly employed or designated by the Commission. Samples taken outside of this Commonwealth may be taken by a regulatory veterinarian employed by the racing jurisdiction of the state where the sample is collected, or by a veterinary technician who is acting under appropriate supervision of the regulatory veterinarian.

(c) The Commission need not provide advanced notice before arriving at any racing facility or other location, whether or not licensed by the Commission, to collect samples.

(d) Upon request by a representative of the Commission, the trainer, owner or their specified designee shall immediately provide information regarding the exact location of their horses which are eligible for out-of-competition testing.

(e) If a representative of the Commission has previously sought and received permission from a managing owner of a facility at which a selected horse is located, no trainer or other custodian of a selected horse may refuse or decline the sampling of the selected horse. The Commission may attempt but is not required to contact the managing owner of the facility again to secure the immediate sampling of the selected horse.

(f) The trainer, owner, or their specified designee shall cooperate fully with the Commission's representative collecting the out-of-competition samples for the Commission. Full cooperation by the trainer, owner, or specified designee shall include:

(1) Assisting in the immediate location and identification of the horses;

(2) Making the horse available as soon as practical upon arrival of the person who is responsible for collecting the samples;

(3) Providing a stall or other safe location to collect the samples;

(4) Assisting the person who is collecting samples in properly procuring the samples; and

(5) Witnessing the taking of samples including sealing of sample collection containers.

(g) The management and employees of a licensed racetrack or horse facility at which a horse may be located shall cooperate fully with the Commission representative who is authorized to take samples. The person who collects samples for the Commission may require that the collection be done at a specified location on the premises.

(h) The Commission, in its sole discretion, and upon request, may permit the trainer, owner, or their specified designee to present a selected horse, which is located in this Commonwealth, but not at a licensed racetrack or horse facility licensed by the Commission, to be sampled at an alternate time and location designated by the Commission.

**§ 405.6. Procedures for collecting samples from horses located outside the jurisdiction.**

The Commission may arrange for the sampling of an out-of-state horse by requesting that the selected horse be brought to a designated racetrack or other location in this Commonwealth within 24 hours of the request. Failure to abide by this request will result in a scratch of the selected horse and the horse being placed on the Stewards' or Judges' list for 90 days and may further subject the owner, trainer or other specified designee of record to a penalty under § 405.9(a) (relating to penalties for non-cooperation or positive tests).

**§ 405.7. Analysis and use of collected samples.**

(a) The Commission may have out-of-competition samples tested to produce information which may enhance or assist the ability of the Commission to enforce its existing racing medication and anti-doping regulations.

(b) Existing post-race split sample rules and procedures shall apply to out-of-competition testing, except that the split sample shall be retained at the licensed racetrack.

(c) The Commission may use any remaining sample for other equine research and investigation.

**§ 405.8. Cooperation with the Commission.**

(a) Licensees of the Commission are required to cooperate and comply fully with the provisions of this chapter as set forth more specifically in § 405.5(f) (relating to general procedures for collecting samples).

(b) Any duly licensed person, including an owner, trainer or groom shall be deemed to have given specific permission and consent for Commission representatives to collect out-of-competition samples from their horses regardless of the horse's physical location, whether

stabled on the grounds or shipped into a licensed racetrack. Licensees shall take any steps necessary to authorize access by Commission representatives into the premises.

(c) No other person shall knowingly and intentionally interfere with or obstruct a sampling of horses.

**§ 405.9. Penalties for non-cooperation or positive tests.**

(a) Failure or refusal to make a horse available for sampling or other intentionally deceptive acts or interference during the sampling process shall carry a minimum penalty of a 180-day suspension, plus a \$5,000 fine and referral to the Commission for other action deemed appropriate. In addition to the foregoing, a horse entered in to race, but not sampled due to the licensee's non-cooperation, may also be scratched.

(b) A selected horse, which is not made available for out-of-competition sampling, shall be placed on the Steward's or Judge's list and shall remain on the list for a minimum of 90 days and must test negative per the out-of-competition testing requirements before it may be removed from the list.

(c) A selected horse, which is presumed eligible for out-of-competition testing, as set forth in § 405.3(c) (relating to horses eligible to be tested), shall be placed on the Steward's or Judge's list and shall be ineligible to race in this Commonwealth for 180 days if the owner, trainer or their designee fails to provide evidence that the horse is not engaged in racing activities related to competing in racing within this Commonwealth. This restriction shall not apply if the trainer, owner or their designee permits the immediate collection of the samples from the horse.

(d) A trainer with a positive test for Anabolic Steroids shall be fined \$5,000 and suspended for a period of 180 days. In addition, trainer shall also forfeit any purse money earned.

(e) A trainer with a positive test for blood doping agents shall be \$10,000 and suspended for a period of 2 years. In addition, trainer shall also forfeit any purse money earned.

(f) All horses that test positive for Anabolic Steroids or blood doping agents shall be placed on the Steward's or Judges' List for a minimum of 90 days. A horse must provide a negative test sample to be removed from the Steward's or Judge's list.

**CHAPTER 407. PHYSICAL INSPECTION OF HORSES—TEMPORARY REGULATIONS**

Sec.	
407.1.	Assessment of racing soundness and condition.
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**HORSE MORTALITY REVIEW BOARD**

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**§ 407.1. Assessment of racing soundness and condition.**

(a) Every horse entered to participate in an official race shall be subjected to a veterinary inspection prior to starting in the race for which it is entered. The inspection shall be conducted by the Commission Veterinarian or the Commission Veterinarian's designee at a location determined by the Commission or the Commission Veterinarian.



(b) The trainer of each horse or a representative of the trainer must present the horse for inspection as required by the examining veterinarian. Horses presented for examination must have bandages removed and the legs must be clean. Prior to examination horses shall not be placed in ice nor shall any device or substance be applied to the horse which may impede veterinary clinical assessment.

(c) The assessment of a horse's racing condition shall include:

- (1) Proper identification of each horse inspected;
- (2) Observation of each horse in motion;
- (3) Manual palpation and passive flexion of both forelimbs;
- (4) Visual inspection of the entire horse and assessment of overall condition;
- (5) Clinical observation in the paddock and saddling area, during the parade to post and at the starting gate, during the running of the race, and following the race until the horse has exited the race track; and

(6) Any other inspection deemed necessary by the Commission veterinarian and the Commission Veterinarian designee.

(d) The Commission Veterinarian and the Commission Veterinarian designee shall maintain a permanent continuing health and racing soundness record of each horse inspected. This record shall be provided to the Commission upon request. If the record contains confidential or personal identification information, that information may be redacted prior to public review.

(e) The Commission or the Commission Veterinarian designee shall be authorized access to any and all horses housed or present at the licensed racetrack facility and grounds regardless of the horse's entry status.

(f) If, prior to starting, a horse is determined to be unfit for competition, or if the Commission Veterinarian is unable to make a determination of racing soundness, the Commission Veterinarian will recommend to the Stewards the horse be scratched. Horses scratched upon the recommendation of the Commission Veterinarian shall be placed on the Veterinarian's List.

**§ 407.2. Veterinarian's List.**

(a) As set forth in § 305.203 (relating to Veterinarian's List) of the Commission's regulations, the Commission Veterinarian shall maintain the Veterinarian's List of all horses which are determined to be unfit to compete in a race due to illness, unsoundness, injury, infirmity, heat exhaustion, positive test or overage, administration of a medication invoking a mandatory stand down time, administration of shock wave therapy or any other assessment or determination by the Commission Veterinarian that the horse is unfit to race.

(b) Horses so listed are ineligible to start in a race in any jurisdiction until released by the Commission Veterinarian, except when there is an unforeseen administrative issue in releasing the horse from the Veterinarian's List of another racing jurisdiction.

(c) A horse placed on the Veterinarian's List for being unfit to compete in a race due to illness, physical distress, unsoundness, injury, infirmity, heat exhaustion, or any other assessment or determination by the Commission Veterinarian may be removed from the Veterinarian's List when in the opinion of the Commission Veterinarian, the

condition which resulted in the horse's placement on the list is resolved and the horse's status is returned to racing soundness.

(d) Horses participating in a qualifying race or working to be released from the Veterinarian's List are to be subjected to a post-exercise biologic sample collection for laboratory confirmation of compliance at the expense of the current owner.

(e) Horses having generated a positive drug finding on a biological sample collected under the Commission's regulations shall not be released from the Veterinarian's List until it generates a negative test.

**§ 407.3. Postmortem examination and necropsy.**

(a) A horse that dies or is euthanized, whether in training or in competition, while present on the licensed racetrack facility under the jurisdiction of the Commission, shall undergo a postmortem examination (necropsy) at a laboratory approved by the Commission to determine, where possible, the injury or sickness which resulted in euthanasia or natural death. Within 24 hours of the horse's death or euthanization, the Commission Veterinarian shall notify the Director of the respective bureau in writing.

(b) A horse that dies or is euthanized while present on the licensed racetrack facility, but not during training or competition, may undergo a necropsy at the discretion of the Commission Veterinarian based upon available information at the time.

(c) The Commission Veterinarian, in coordination with the racetrack veterinarian, the racing secretary and the owner or trainer of the horse, shall take physical possession of the horse upon its death for postmortem examination. All shoes and equipment on the horse's legs shall be left on the horse.

(d) The Commission Veterinarian or the racetrack veterinarian shall collect blood, urine, bodily fluids, or other biologic specimens immediately, if possible before euthanization. The Commission may submit the blood, urine, bodily fluids, or other biologic specimens collected from the horse to its testing laboratory for toxicological analysis. The presence of a prohibited substance in a specimen collected from the horse may constitute a violation. The collection of the biologic samples post-euthanization shall not invalidate the findings by the testing laboratory of a prohibited substance.

(e) To maintain control of the evidentiary chain of custody, the necropsy report of the deceased horse or other documentary findings and results shall remain in the Commission's sole control and possession. All licensees shall be required to comply with postmortem examination requirements as a condition of licensure.

(f) The Commission may direct that an investigation be conducted based upon the results of the necropsy or the testing laboratory findings. These investigatory documents and findings are not deemed public records for purposes of the act of February 14, 2008 (P.L. 6, No. 3), known as the Right-to-Know Law (65 P.S. §§ 67.101—67.3104).

**HORSE MORTALITY REVIEW BOARD**

**§ 407.4. General purpose.**

(a) While there are attendant risks associated with live Standardbred and Thoroughbred racing, the Commission fully understands that the fatality of any racing horse represents a tragic loss for the horse owners, trainers and caretakers and can impact the health and safety of

jockeys and drivers as well. The Commission's top priority is to protect the welfare of the human and equine athlete and reduce equine fatalities within this Commonwealth by establishing a Horse Mortality Review Board (Mortality Board). The Commission believes that meetings of the Mortality Boards should be educational in nature but should emphasize everyone's collective responsibility to protect the safety and welfare of the participating horse, drivers and jockeys.

(b) To that end, the objective of each Mortality Board shall be to conduct a methodical review of information which is intended to identify practical and relevant intervention procedures, protocols and recommendations designed to potentially reduce the occurrence of racing fatalities.

**§ 407.5. Creation of Horse Mortality Review Board.**

(a) In addition to the licensing provisions of Chapter 181 (relating to licensed racing entities—temporary regulations), the Commission hereby directs that each Thoroughbred and Standardbred licensed racing entity within this Commonwealth shall create a Horse Mortality Review Board (Mortality Board) to be located at each racetrack facility to be approved by the Commission.

(b) Each Mortality Board shall include, at least, the following individuals:

- (1) Racetrack Vice-President, General Manager or similar level management person (Chair);
- (2) A Commission Steward or Judge of the applicable racetrack;
- (3) A Commission Veterinarian;
- (4) A representative of the applicable horsemen's organization;
- (5) A jockey or driver representative;
- (6) Trainer and assistant trainer (if applicable) of the fatally-injured horse;
- (7) Attending veterinarian of the fatally-injured horse;
- (8) Racetrack superintendent; and
- (9) Any other individual deemed necessary and appropriate by the Mortality Board.

(c) The goal of the Mortality Board shall be to gather information regarding the catastrophic event and to have an open communication between all the previously listed individuals regarding issues which may have led to the incident and to ultimately arrive, if possible, at conclusions and recommendations to the appropriate entity or person, in particular and where possible to the general racing industry.

**§ 407.6. Meeting procedures.**

(a) The Horse Mortality Review Board (Mortality Board) shall meet to discuss and interview individuals related to each catastrophic horse injury occurring at that racetrack facility. If no catastrophic injury has occurred, then the Mortality Board shall meet at least quarterly throughout the year.

(b) Either shortly prior to or during the Mortality Board meeting, the following documents, information or procedures, or both, shall be reviewed:

- (1) The video of race, if applicable;
- (2) The attending or treating veterinarian's records for the fatally-injured horse for a 30-day period prior to the horse's catastrophic injury;
- (3) The past performance records to determine the horse's exercise history warranted increased pre-race scrutiny;
- (4) The Incompass or E-Track, or similar racing database records to determine whether the horse had previously been on a Steward's or Veterinarian's List;
- (5) The pre-race examination findings;
- (6) Risk factors that may apply to the fatally injured horse;
- (7) The Death Certificate and the Commission Investigative Report and Necropsy Report, if available;
- (8) Any findings or results of blood or urine tests conducted by the Commission's Testing Laboratory;
- (9) The trainer's and veterinarian's treatment log/sheets.

**§ 407.7. Standardized questions.**

The Commission, in conjunction with the approved and established Horse Mortality Review Board (Mortality Board), shall develop a set of standardized questions to assist in identify factors which might predispose a horse to suffer catastrophic injuries. The standardized questions may be amended from time to time by the Mortality Board with the approval of the Commission.

**§ 407.8. Report and recommendations.**

At the conclusion of each Horse Mortality Review Board (Mortality Board) meeting regarding a catastrophic horse injury, the Mortality Board shall prepare a report with conclusions and recommendations regarding the incident and shall provide a copy to all individuals on the Mortality Board and the Commission's Bureau Directors.

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