

**CHAPTER 407. PHYSICAL INSPECTION OF HORSES—
TEMPORARY REGULATIONS**

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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 of 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.

