



## MASSACHUSETTS GAMING COMMISSION MEETING

July 23, 2015

10:30 a.m.

**Hynes Convention Center**  
900 Boylston Street, Room 103  
Boston, MA



Massachusetts Gaming Commission

101 Federal Street, 23rd Floor, Boston, Massachusetts 02110 | TEL 617.979.8400 | FAX 617.725.0258 | [www.massgaming.com](http://www.massgaming.com)



## NOTICE OF MEETING and AGENDA

July 23, 2015

Pursuant to the Massachusetts Open Meeting Law, G.L. c. 30A, §§ 18-25, notice is hereby given of a meeting of the Massachusetts Gaming Commission. The meeting will take place:

Thursday, July 23, 2015

10:30 a.m.

Hynes Convention Center

900 Boylston Street – Room 103

Boston, MA

### PUBLIC MEETING - #158

1. Call to order
2. Approval of Minutes
  - a. July 9, 2015
3. Racing Division – Alex Lightbown, Interim Director
  - a. Suffolk Downs Racing Application – R. Day, Executive Director and C. Blue, General Counsel – **VOTE**
  - b. Racing Regulations: 2.00/3.00/4.00 Amendments – R. Day, Executive Director and C. Blue, General Counsel – **VOTE to begin public process**
4. Investigations and Enforcement Division – Karen Wells, Director
  - a. KG Urban Investigation Update
  - b. Temporary Licenses
5. Administrative Update – Rick Day, Executive Director
  - a. General Update
  - b. Penn National Gaming/Plainridge Park Casino Quarterly Report – J. Rauen, Penn National Gaming
6. Legal Division – Catherine Blue, General Counsel
  - a. 205 CMR 139: Licensee Disclosure and Reporting – Final Adoption and Approval of Amended SBIS – T. Grossman, Deputy General Counsel - **VOTE**
7. Research and Responsible Gaming – Mark Vander Linden, Director
  - a. Play Management Update
  - b. GameSense Public Outreach and Awareness Initiatives Update – E. Driscoll, Director of Communications
  - c. GameSense Info Center Report – Marlene Warner, MA Council on Compulsive Gambling and GameSense Advisors
  - d. Responsible Gaming Education Awareness Week



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8. Other business -- reserved for matters the Chair did not reasonably anticipate at the time of posting.

I certify that on this date, this Notice was posted as "Gaming Commission Meeting" at [www.massgaming.com](http://www.massgaming.com) and emailed to: [regs@sec.state.ma.us](mailto:regs@sec.state.ma.us), [melissa.andrade@state.ma.us](mailto:melissa.andrade@state.ma.us).

7/21/15  
(date)

Stephen P. Crosby / s  
Stephen P. Crosby, Chairman

**Date Posted to Website:** July 21 , 2015 at 10:30 a.m.



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## Meeting Minutes

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**Date/Time:** July 9, 2015 – 10:30 a.m.

**Place:** Boston Convention and Exhibition Center  
415 Summer Street, Room 107B  
Boston, Massachusetts

**Present:** Chairman Stephen P. Crosby  
Commissioner Gayle Cameron  
Commissioner James F. McHugh  
Commissioner Bruce W. Stebbins  
Commissioner Enrique Zuniga

**Time entries are linked to  
corresponding section in  
Commission meeting video**

### **Call to Order**

See transcript page 2

[10:31 a.m.](#) Chairman Crosby called to order the 157<sup>th</sup> Commission Meeting.

### **Approval of Minutes**

See transcript pages 2-5

[10:34 a.m.](#) *Commissioner McHugh moved for the approval of the June 25, 2015 minutes with reservation of power to change mechanical and typographical errors and to include the following amendments raised by Commissioners Zuniga and Stebbins: Commissioners Zuniga - to include his inquiry as to the status of submission of required documents by KG Urban, and Commissioner Stebbins - to note that proposals pertaining to the definition and status of Veterans are tabled pending further exploration by staff and the Commission. Motion seconded by Commissioner Cameron. Motion passed unanimously.*

### **Administrative Update**

See transcript pages 5-23

[10:37 a.m.](#) Caesar Ibarra, of Eide Bailly, provided an outline on the three phases of auditing which included: internal control/audit program drafting, licensee site audits, and knowledge transfer to MGC staff.



[10:54 a.m.](#) Executive Director Rick Day provided an update on the status of temporary key gaming licenses issued by the Investigations and Enforcement Bureau for employees at Plainridge Park Casino.

[10:55 a.m.](#) Executive Director Day provided an update on the status of the suitability investigation for KG Urban. Executive Director Day noted that KG Urban is in substantial compliance with the requested documentation by the Investigations and Enforcement Bureau.

### **Ombudsman**

See transcript pages 23-78

[10:56 a.m.](#) Ombudsman John Ziemba provided an estimated schedule for key dates in the Region C RFA-2 licensing process and discussed plan to notify potentially affected communities of the dates and timelines.

[11:02 a.m.](#) Ombudsman Ziemba and MGC consultant Jennifer Pinck presented an overview of the process for review of MGM Springfield's request to amend construction schedule.

[11:13 a.m.](#) Ombudsman Ziemba provided an update on progress towards completion of the Massachusetts Historical Commission's review of the MGM Springfield project.

[11:16 a.m.](#) Ombudsman Ziemba asked the Commission to allocate \$350,000 for the City of Springfield's request for Community Mitigation Funds for contributions to a Springfield preservation trust fund and asked Executive Director Day and staff to begin drafting of a Memorandum of Understanding reflecting this contribution.

[11:26 a.m.](#) *Commissioner Zuniga moved that the Commission fund out of the Community Mitigation Fund, make a commitment of funding the Springfield Historical Preservation Trust outlined in the packet and discussed, and authorize MGC staff to memorialize that funding in a memorandum of agreement with the other parties and bring back to the Commission for final approval. Motion seconded by Commissioner Stebbins. Motion passed unanimously.*

[11:27 a.m.](#) Ombudsman Ziemba provided recommendations on applications from communities and entities for monies from the 2015 Community Mitigation Fund and Reserve Fund.

[11:56 a.m.](#) *Commissioner Zuniga moved that the Commission agree to the recommendations by Ombudsman Ziemba on the community mitigation requests submitted by Medford, Revere, Somerville, Springfield and West Springfield in the manner contained in the packet. Motion seconded by Commissioner Stebbins. Motion passed unanimously.*

[12:00 p.m.](#) The Commission took a short recess.

[12:16 p.m.](#) The meeting resumed.

### **Legal Division**

See transcript pages 78-86

[12:16 p.m.](#) General Counsel Catherine Blue provided an update on the status of MGM Springfield Section 61 findings.

[12:20 p.m.](#) General Counsel Blue presented on the Amended Small Business Impact Statements for amendments to 205 CMR 134.00 and 205 CMR 102.00.

[12:24 p.m.](#) *Commissioner Stebbins moved that the Commission approve the Amended Small Business Impact Statements for 205 CMR 134.00 and 205 CMR 102.00, and to authorize the Legal Division to conduct the necessary steps to promulgate final regulations. Motion seconded by Commissioner Cameron. Motion passed unanimously.*

### **Other Business Not Reasonably Anticipated**

See transcript pages 86-87

12:25 p.m. *Having no further business, a motion to adjourn was made by Commissioner Cameron. Motion seconded by Commissioner Zuniga. Motion passed unanimously.*

### **List of Documents and Other Items Used**

1. Massachusetts Gaming Commission, Notice of Meeting and Agenda, dated July 9, 2015
2. Massachusetts Gaming Commission, Draft Meeting Minutes, dated June 25, 2015
3. Eide Bailly Presentation – Massachusetts Gaming Commission Executive Briefing Progress Update – Internal Control Consulting, date July 2015
4. Massachusetts Gaming Commission Memorandum, Temporary Key Gaming employee Licenses Issued, Dated July 9, 2015
5. Massachusetts Gaming Commission, Estimated Region C Category 1 Timeline, dated July 6, 2015
6. Massachusetts Gaming Commission Memorandum, 2015 Community Mitigation Fund Specific Impacts Requests and West Springfield Community Mitigation Reserve Fund Request with attachments, dated July 8, 2015
7. MGM Springfield Presentation on Massachusetts Historical Commission with attachments, dated June 30, 2015
8. Amended Small Business Impact Statements for 205 CMR 102 and 205 CMR 134
9. Letter from Jay Michelman to the Massachusetts Gaming Commission, dated June 26, 2015 regarding 205 CMR 102, Draft Regulation Comment
10. Letter from Affiliated Chambers of Commerce of Greater Springfield to John Ziemba, dated July 8, 2015 regarding support for MGM Springfield extension
11. Letter from Mary Kay Wydra, Greater Springfield Convention and Visitors Bureau, to John Ziemba, dated July 8, 2015 regarding support for MGM Springfield extension

12. Letter from White Lion Brewing to John Ziemba, dated July 7, 2015 regarding support for MGM Springfield extension

/s/ Catherine Blue

Catherine Blue, Assistant Secretary

DRAFT



**DATE:** July 21, 2015

**TO:** Chairman Stephen Crosby  
Commissioner Gayle Cameron  
Commissioner James McHugh  
Commissioner Bruce Stebbins  
Commissioner Enrique Zuniga

**FROM:** Alex Lightbown, Acting Director of Racing  
Catherine Blue, General Counsel

**CC:** Rick Day, Executive Director

**RE:** Suffolk Downs – August 8<sup>th</sup>, September 5<sup>th</sup> and October 3<sup>rd</sup>, 2015

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Suffolk Downs has applied to the Massachusetts Gaming Commission (MGC) for three days of racing festivals: August 8, September 5, and October 3. If granted the license, Suffolk will enter into a consulting agreement with New England Horsemen’s Agricultural and Racing Cooperative (NEHARC) to manage the racing.

Lou Raffetto is the sole employee of NEHARC. In Mr. Raffetto’s June 16<sup>th</sup> letter to the MGC, he states, “it is the New England HBPA, through the New England Horsemen’s Agricultural and Racing Corporation (NEHARC) that will conduct racing operations for the festival. In a June 15<sup>th</sup> letter to the MGC from HBPA President Anthony Spadea, Mr. Spadea states, “...the abbreviated meet...will demonstrate that the NEHBPA horsemen under the guidance of General Manager Louis Raffetto are very capable of conducting a race meet”.

The HBPA and Mr. Raffetto have now indicated that Mr. Raffetto alone will be conducting the race meet. Lou was a consultant for the New England Horsemen’s Benevolence and Protective Association (HBPA) earlier this year, but this ended May 31<sup>st</sup>. Mr. Raffetto was Vice President of Racing at Suffolk Downs for nine years. More recently he was an executive with the Maryland Jockey Club and Executive Director of the Thoroughbred Owners of California.

Mr. Raffetto is planning on 10-15 races per day. Three of these would be Mass bred races, which have their own dedicated purse money totaling \$150,000 per day. Provided there are enough entries to fill each race:

- Four races would be restricted to horses that previously started at Suffolk Downs with total purses per day of about \$110,000.



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- Up to three steeplechase races with purses in the \$30-35,000 range each would be included. Steeplechase races are races with Thoroughbreds that race over jumps. Suffolk last had steeplechase races in 1996 and 1997.
- The rest of the races give preference to horses that raced at Suffolk in 2014 provided they meet the conditions of those races.

It is estimated about \$500,000 per day will be given out in purse money. In comparison, last year approximately \$100,000 was given out in purse money each day at Suffolk. Besides the racing, there will be a food truck festival and family friendly activities such as pony rides and a bouncy house.

As far as staffing goes, NEHARC will bring back Suffolk's Racing Secretary, Tommy Creel, and most of the other racing staff from 2014. The 2014 staff was well qualified and experienced.

If they are approved for race days, Sterling Suffolk Racecourse has requested a distribution of \$1.75 million from the Race Horse Development Fund. This would go into the purse account, as per Chapter 23K, section 60. Chapter 10 of the Acts of 2015 allows for monies in the purse account to be used for administrative and horseracing operations. The \$1.75 million would be used as follows:

- \$1,200,000 for purses for the three days of racing;
- \$325,000 for racing operating expenses and future racing facility developmental expenses
- \$225,000 NEHBPA annual operating expenses

If there is no live racing, the money can be escrowed for three years.

The Acts of 2015, Chapter 10 allow Suffolk Downs to continue simulcasting through July 31, 2016 as long as there is a minimum of one day of live racing at Suffolk Downs in 2015 and 2016. Approving 3 days of live racing would allow Suffolk to continue to offer simulcasting and retain some of their employees. Last year, there was \$129,787,130 bet at Suffolk on simulcast import (signals from other tracks bet on at Suffolk). Simulcast commissions resulted in \$483,611 of revenue collected by the State.

If the MGC approves the racing at Suffolk Downs, the benefits to the Commonwealth include:

**Employment** - continued employment for the remaining Suffolk Downs employees and employment opportunities during the race days including racing office staff, racing officials, concession personnel and a few more Gaming Commission employees. This could be another 50 employees.

**Revenue** - The Commonwealth will also get income from the daily assessments, association license fees, and commissions. In 2014 that amount was; \$483,611 in simulcast commission, \$42,123 in live racing commission, \$470,075 in assessments fees, \$86,700 in association license fees, \$37,110 in occupational license fees, \$285,130 in out's money (paid back to purses), \$8,290 in fines and penalties and \$4,440 in miscellaneous fees (badges). Total revenue collected was \$1,417,478. Doug O'Donnell, Senior Financial Specialist, estimates an annual revenue loss of \$1.2 million if there is no simulcasting, or \$600,000 through the end of 2015.



Business - There will also be some money that will be spent on ancillary businesses, such as feed vendors, tack stores, and farms.

Mass Bred Showcase-The Massachusetts Thoroughbred Breeders Association will benefit by racing for their purse money and getting to showcase their horses in their home state. The purse money won in the Mass bred races does have good trickle down to other Massachusetts businesses, since the money stays in state.

Benefits to the local horsemen, or horsemen who have supported Suffolk Downs, include racing for good purse money, getting to come home to Massachusetts for the weekend, and re-connecting with their fellow horsemen. If the three days of racing are approved, it will benefit Thoroughbred racing by getting some money distributed for expenses, spotlight the sport, and help keep it visible while the future is being explored.

In order to grant a racing license, the commission must take into consideration the criteria provided in Chapter 128A Section 3 (i). Those criteria are: the financial ability of the applicant to operate race track; the maximization of state revenues; the suitability of racing facilities for operation at the time of the year for which the dates are assigned; the circumstances that large groups of spectators require safe and convenient facilities; having and maintaining proper physical facilities for racing meetings; and according fair treatment to the economic interest and investments of those who in good faith have provided and maintained the facilities. In order for the Commission to determine if the criteria are met, the Commission can consider the application materials provided by the applicant, the responses to the additional questions submitted to Suffolk, and the testimony and comments received from the public. The Commission can find that the applicant meets the criteria in section 3(i) if there is substantial evidence in the record before the Commission supporting such a finding evidence in the record before the Commission supporting such a finding

1. Suffolk has the financial ability to operate by using money in accordance with Chapter 10 of the Acts of 2015 for some of their operating expenses. Even with that money, however, the financial information provided in the record shows that Suffolk will lose money and run a deficit. They would be maximizing state revenue by continuing to simulcast since the Commonwealth will receive the monies required by statute to be paid to the Commission.
2. The facility is suitable for operation during the months they are planning to race, and safe and convenient for a large number of spectators.
3. The staff they are hiring is experienced and should be qualified to honestly manage racing and the increased purses should help ensure good quality racing.
4. As far as having the proper physical facilities for racing, Suffolk has stated they will do some carpentry maintenance on the barns to be used.



Massachusetts Gaming Commission

5. The track surface is usually very safe, with a low rate of injuries. Since there will be minimal training on it ahead of time, the Racing Division recommends that Suffolk be required to get an outside track expert to evaluate the track surface.
6. Since the track kitchen burned down, they will have only a food truck for the people on the backside, but this is offset by their intention to not charge for the food. The dorms will be re-commissioned and available.

One of the main drawbacks to this plan is the low number of live racing days. They obviously won't provide full time employment or work in conjunction with another meet to do so. Also, with the horses being on the grounds such a short time, it really limits the amount of earned purse money that will be spent in Massachusetts. The high purses will be good for some horsemen, but others who raced at Suffolk last year won't have horses that can compete at that level. They have horses that fit the \$100,000 per day purse schedule of last year. Mr. Raffetto and Mr. Tuttle stated that they are exploring as many ways as they can to benefit the horses and people that supported Suffolk in the last few years. Mr. Raffetto feels the steeple chase races will add a festive flair to the meet and they are a known quantity to him as far as being able to fill the racing card. However, some horsemen may be frustrated when they have lost their jobs and had to move, and \$90,000 a day in purses may be going to steeple chasing. This is almost as much purse money as Suffolk gave out per day last year for flat racing.

Mr. Raffetto suggested the Commission look at the meet at Kentucky Downs as a means of comparison. It is a successful short festival meet. However, there is a lot of other racing in Kentucky; the Kentucky Downs meet is not the only meet for Kentucky horsemen. The NEHBPA members might not be so divided on the Suffolk three day meet if there were several other tracks and race meets in Massachusetts. It should be noted that there is significant division among NEHBPA and MTBA members as to whether they want it, or would rather their money be escrowed this year.

#### Recommendation

If the two options for this year are the three day meet or no meet, I recommend the Commission approve the three day meet with the following conditions:

1. Suffolk will get an independent expert in to review the track surface prior to racing.
2. Suffolk will provide a detailed budget to the Commission.
3. Every effort will be made to limit the number of steeple chase races to one per day.
4. After each day of racing, Suffolk will report to the Commission the numbers and percentage of recent Suffolk horsemen and horses that benefited from their races.
5. The date in August will be pushed back at least a week to August 15<sup>th</sup> to give the Commission time to approve the racing officials and key operating personnel, license and finger print the occupational licensees, and get their staff on board.



Massachusetts Gaming Commission



6. Suffolk Downs is in arrears with the Commission in regards to Twin Spires ADW from March through June (an estimated \$20,000); they need to provide the Commission with a signed contract and become current in their payments.

I've concluded that if the three days of racing are approved, it will benefit Thoroughbred racing by getting some purse money distributed for expenses, spotlight the sport, and help keep it visible while the future is being explore



Massachusetts Gaming Commission

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# Fax

**To:** Alex Lightbown **From:** Jay Bernardini

**Fax:** 617-725-0258 **Date:** July 22, 2015

**Phone:** **Pages:** 2

**Re:** **CC:**

- Urgent     For Review     Please Comment     Please Reply     Please Recycle

**-Comments:**

July 22, 2015

To Massachusetts Gaming Commission:

My name is Jay Bernardini. I am a lifelong resident of Massachusetts, one of the acting vice presidents of the NEHBPA and a current horse trainer operating a racing stable of 50 horses in the state of Maryland.

I am contacting you as a concerned member of the Massachusetts horsemen's community. My intention at this time is to share an opinion on our current situation and the imminent proposal of a 3 day race meet at Suffolk Downs this year.

While I voted in favor of such a proposal as an NEHBPA board member some time ago recent developments have come to my attention that have made me and other board members that yet another and better option may be available.

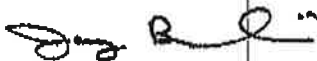
Apparently, the Stronach Group has expressed a sincere interest in trying to revive live racing in the state of Massachusetts. In order to do so any other racing entity that is granted a license with a miniscule number of racing days that would ensure continued simulcasting would severely undermine any efforts of the Stronach Group to revive racing in Massachusetts. With that being the case, my opinion on granting Suffolk Downs the 3 day meet has changed until we can explore all the current options which would possibly secure a live racing meet that would be more beneficial to the Massachusetts racing community.

While I'm aware this is a time sensitive issue the gaming board is expected to render a decision possibly as soon as Thursday, July 23, 2015. I am hoping that a delay on such a decision could be possible in an effort to afford all interested parties enough time to explore all options.

Let it be clear that I'm not speaking for the entire NEHBPA board but in fact as just one member; however, I do think everybody would concur, that exploring every avenue to resurrect a substantial live racing meet in Massachusetts in the nearest possible future is in fact in everyone's best interest.

Thank you for your time and consideration!!!

Kind Regards,



Jay Bernardini



## The National HBPA, Inc.

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*Legal Counsel*  
Peter Ecabert

*Veterinary Advisor*  
Dr. Thomas Tobin

July 21, 2015

Massachusetts Gaming Commission  
ATTN: Chairman Stephen P. Crosby  
84 State Street, 10<sup>th</sup> Floor  
Boston, MA 02109

Re: License Application of the New England HBPA

Dear Chairman Crosby:

The National Horsemen's Benevolent & Protective Association, Inc. ([www.hbpa.org](http://www.hbpa.org)) ("NHBPA") is the largest trade association in the United States representing approximately 30,000 Thoroughbred racehorse owners and trainers. The mission of the NHBPA is to improve and preserve Thoroughbred horse racing. The NHBPA has Affiliates in 26 states and in Canada. The New England HBPA is one of our Affiliates and it has approximately 900 members.

I write you today in order to show support for the New England HBPA's Application for a license to lease and operate Suffolk Downs in 2015. I feel there are several critical points I want to ensure the Commission takes into consideration as part of your review process.

1. First and foremost is the importance of jobs to your region. Not only positions that are found within the track itself, such para-mutual clerks, management staff, regulatory staff, food service staff, maintenance and janitorial staff jobs but also, the trainers, grooms, hot walkers, exercise riders and jockey jobs will be lost on the "backside" should Suffolk Downs not be granted an operational license to the New England HBPA. In summary, anyone with a Massachusetts Thoroughbred racing license equals jobs for you state. It is estimated that as many as 1,500 jobs could be employed at Suffolk Downs.
2. Second, is that of the Thoroughbred breeding industry throughout your state. The owners of Massachusetts-bred horses will no longer have a market to sell and race their Massachusetts-bred horses.

3. Additionally with the loss of jobs comes a loss of payroll tax revenue throughout the state. Thus negative ramifications of the permanent closing of Suffolk Downs could essentially be felt statewide.
4. Suffolk Downs is a valuable part of the Thoroughbred racing industry. It is essential that tracks like Suffolk Downs exist because very few horses are Kentucky Derby tier horses. Without tracks like Suffolk Downs a significant percentage of New England Thoroughbred horses will have no place to race.
5. Lastly, the Massachusetts Thoroughbred Breeders Association continues to conduct a bonus program and a stakes program for Massachusetts-bred horses. The bonus program pays the owner and breeder, of a MA-bred horse, a bonus (in addition to the purse earned) by their horse for finishing first, second or third in any race. The stakes program consists of eight races with purses of \$25,000 per race. These races, which are restricted to Massachusetts-bred horses, provide the owners of these Massachusetts-bred horses with a greater chance for a positive return on investment, and make a Massachusetts-bred more valuable in the auction market.

For all the reasons I have set forth above, I respectfully request the Massachusetts Gaming Commission approve the License Application of the New England HBPA. I also believe this approval will continue to yield substantial economic and other benefits throughout the State of Massachusetts and will contribute to the overall health of the Thoroughbred horse racing industry in New England.

Sincerely,

Eric J. Hamelback, CEO  
The National HBPA, Inc.

CC:

Alexandra Lightbown, Director of Racing, Massachusetts Gaming Commission

**From:** [aslm444@aol.com](mailto:aslm444@aol.com) [mailto:[aslm444@aol.com](mailto:aslm444@aol.com)]

**Sent:** Tuesday, July 21, 2015 7:39 PM

**To:** Lightbown, Alexandra (MGC)

**Subject:** 3 racing days

Hello Dr. Lightbown,

As I stated at the Gaming Commission hearing on June 11, 2015 that I am the largest single breeder in the state, I am very much opposed to the 3 days of racing for the following reasons:

1\_Hardly any benefit to our local horsemen if any.

2\_No benefit to local businesses such as feed, hay and bedding stores, , local farriers, .. etc.

3\_The way the races are written, all the purse money will go to horsemen from out of state, certainly when our legislatures approved the race horse development fund they did not intend to give millions to horsemen from out of state.

4\_Good amount of the money will go as salaries to HBPA people who should have been on unemployment starting October of 2014 since there was not and there isn't any work now, they are getting full salary for no work.

5\_Three days of racing will benefit the HBPA personnel and Suffolk only, it spells the end of racing, it is a scam, big scam.

Enough harm and suffering has been inflicted on our local horsemen, breeders, farriers, boarding farms,...etc.three days of racing is adding insult to injuries.

Thank you for the opportunity to express my concern.

Dale A. Salim

**From:** [lilofthat@aol.com](mailto:lilofthat@aol.com) [<mailto:lilofthat@aol.com>]

**Sent:** Tuesday, July 21, 2015 8:17 PM

**To:** Lightbown, Alexandra (MGC)

**Subject:** Three Racing Days

Hi,

I own 2 Mass. bred horses and raced at Suffolk for the past few years, I like to voice my opposition to the 3 days of racing because it does not help any local horsemen and businesses, it is a scam designed by the HBPA and Suffolk so Suffolk can continue simulcasting and the HBPA will get their kick back of \$750,000.00 to fill Spadia, Raffeto and Bruce's pocket.

Magthilda Kortenover



**From:** Vie Swinamer [<mailto:vswinamer@comcast.net>]  
**Sent:** Tuesday, July 21, 2015 10:17 PM  
**To:** MGCcomments (MGC)  
**Subject:** Suffolk Downs

**Gentlemen:**

**Having closed Suffolk Downs and destroyed racing in Massachusetts I am opposed to a 3 day Racing schedule which could be injurious to all that might consider participation due to the facility having been shut down for more than a year.**

**Sincerely,**

**Vie Swinamer**

**From:** [Jdupont36@aol.com](mailto:Jdupont36@aol.com) [<mailto:Jdupont36@aol.com>]

**Sent:** Tuesday, July 21, 2015 3:23 PM

**To:** [pemburyhouse@aol.com](mailto:pemburyhouse@aol.com)

**Cc:** MGCcomments (MGC)

**Subject:** Racing Comm.

Hi.

I just got off the phone with the Gov's office. I asked them to double check with the Racing Commission as to any option they are considering **and my opposition to a three day race meeting.**

Since appointments to these commissions are made by the Gov. he should be taking a more active interest and also determine revenue impact that their decisions have on the Commonwealth.

I expressed concern that Simulcasting and betting at Suffolk Downs might be in conflict since the live racing was shut down.

**Additionally the offer of three days of racing appears to be a ploy to continue what looks like Off Track Betting not covered under Statute.**

I reiterated the loss of farms, jobs and tax revenue from all related services to raising race horses in Massachusetts.

As well as NY now reaping the benefit of all fees and taxes that should have been ours.

I asked that they call me back before the Thursday meeting and indicate any comments or action that Gov. Baker's office can lend.

I can call the Lt Gov. as well, years ago we worked on several campaigns and she lives in the next town.....let me know.

**Hope this helps.**

**Julie DuPont**

Northbotough Ma, 508\_393\_6023

**From:** hello [mailto:[bodababie@yahoo.com](mailto:bodababie@yahoo.com)]  
**Sent:** Tuesday, July 21, 2015 2:38 PM  
**To:** Lightbown, Alexandra (MGC)  
**Cc:** Williamlagorio  
**Subject:** Suffolk Downs application for days of racing

MGC

I am a Thoroughbred breeder and property owner in Massachusetts . I am asking the MGC to **not** give a single day or days of racing to Suffolk Downs, that would only benefit the horsemen of other states like NY .They would swoop in take the cash and leave . Single days of racing does nothing to build the racing industry in Massachusetts or help the farm owners. It is time to let go of hanging in there by a thread and allow other interested track developers to take a look see into our state, of which I am extremely proud of , to build an industry of which the finest horses in the world would come to compete. **No more simulcasting** for Suffolk Downs , it just adds to the drip drip drip sounds of our citizens loosing there farms and the interest of developers . Thank you for your time and allowing me to express of just how it is .

Paddy Reardon and M C Reardon  
Thoroughbred Owner , Breeder , Trainer  
and  
Life long resident of Massachusetta

From: Lisa [<mailto:gtkirbys@yahoo.com>]

Sent: Tuesday, July 21, 2015 12:51 PM

To: Lightbown, Alexandra (MGC)

Subject: Racing at Suffolk Downs

Attention to : MA. gaming Commission,

As a Mass Breeder for over fifty years, I would like you to know I am against racing for three days this year at Suffolk Downs. My position is ... If Suffolk management wants to run a meet they should be required to run a minimum of fifty days. If they don't want to run areal racing meet they shouldn't be allow to run at all.

Thank you,  
Tim Kirby

Sent from my iPad

(Received July 21, 2015 via MGC Comments)

Dear Commission

I'm writing again on behalf of my concerns on FACTS vs. FICTION regarding the 3 day festival and racing in general

Contrary to some of the comments you are hearing against the three day festival some of the FACTS to consider when making your decision on Thursday

First and foremost;

As Gaming Commissioners, you frequently make tough decisions. Decisions that you made on gaming license awards were certainly very difficult and not all Massachusetts residents were satisfied with your decisions, but they were decisions that you had to make to uphold the obligations of your office.

Similarly, our Board of Directors frequently makes tough decisions. Decisions that we made on supporting a three day race meet in 2015 were certainly very difficult and not all of our members were satisfied with our decisions, but they were decisions we had to make to uphold the obligations of our office. We were elected by the Thoroughbred horse owners and trainers who race in Massachusetts to make the difficult decisions that impact our member's businesses. We take our responsibilities very seriously and we made the decisions we had to make, in the best interest of our membership.

**FACT:** We as a board of ELEVEN ELECTED officials have to do the same. We are elected by our members (the owners and trainers who race at Suffolk Downs), to represent all the horse owners and trainers. We did not create this problem we inherited it and are working diligently around the clock as volunteer's to find optimal solutions

**FACT:** Our board is comprised entirely of horse owners and trainers and we do care about every horse owner and trainer in our membership. Every decision we make, as a board, impacts our individual board member's horse businesses in the same way as every member's horse business is impacted. Due to the closing of Suffolk Downs, all the members of our organization, including our board members, have been forced to make business decisions that otherwise we would not have had to make. It is just a diverse group it is impossible to accommodate everyone's business needs

**FACT:** All opinions count, we even post on our website to contact us with questions or comments just like you do. [www.nehbpa.com](http://www.nehbpa.com) check it out.

**FACT:** We have reached out to many investors but we received no interest. We also feel, in planning for the future, it makes more sense to be a NON PROFIT owned and operated track so we can control our own future and reinvest back into the industry and help the horseman. Current Bill in with legislation

**FACT:** We considered Brockton as a solution and that solution would not work, primarily because it would take a significant amount of time and money to bring the track up to standards and make it race ready. We would have lost the 2015 meet already and to invest that much time and money for a short term solution didn't make sense to us.

**FACT;** We are working closely with the Mass Breeders on solutions to help keep their program in operation. The three day festival is primarily one of the reasons. The owner of a two year old MA Bred horse would suffer irreparable financial damage, if the horse missed opportunities to race in age restricted races (restricted to two year olds & restricted to three year olds) because the MA

**Bred stake races were put off for two years. MA Bred stake races (age restricted and others) are one of the primary reasons for the 3 day festival**

**FACT: Another important reason for the three day festival is to maintain the attention of our racing fans, the legislature and the general public, while we make the transition in 2015 and 2016 to a new and greatly improved model (targeted in 2017) for the Massachusetts Thoroughbred industry.**

**FACT: The three day festival will and can help local horseman. Any owner/trainer has the right to ship a horse in and compete at any track in the country. We are using the funds to attract horsemen, (including are own horsemen, who have reluctantly chosen to race and stable in other states). In addition, the three day festival will help support other local business and jobs. This is no different than those trainers that leave Suffolk Downs at the end of a meet to continue with their livelihood and ship in to another track.**

**FACT: We've asked for solutions from the opposition and I will even ask the same to the Commission if you are a governing board then what other solutions or ideas do you have to help the horseman out? Based on rules and regulations the funds belong to the horseman and the commission should help support us and our decisions.**

**Sincerely  
Paul Umbrello  
Elected Owner of the NEHBPA board**



(Received July 21, 2015 via MGC Comments)

Dear Commissioners,

I own two Mass bred horses and am a member of MTBA. I strongly support the efforts of Bill Lagorio and Massachusetts Horsemen Seeking Solutions, which I am a part of also.

I have seen the list of some 300 horsemen that was sent to the commissioners who are not in favor of a 1-3 day race meet.

On that list, some 35 breeders and owners of Mass bred are members of MTBA. A 1-3 day race meet for the purpose of

Mass bred stake races allowing SSR with 2 years of simulcasting is an imbalance, rewarding a few at the expense of many.

Since the June 11, 2015 meeting, Bill Lagorio and MHSS have made contact with representatives of the Magna Group. They are very interested in racing in Boston, either by leasing or buying Suffolk or building a track in Mass.

George Carney, with his Brockton and 105 acres in Raynham, is also showing interest.

One or two things could be decided, no to racing a 1-3 day race meet or a postponement. Either one would give MHSS a chance to continue talking with Magna and Carney with a follow through plan that could keep racing and jobs alive in the industry.

Below are names of members of MTBA or owners of Mass bred. (Telephone numbers and addresses can be found on the master list, if needed):

Steve Casey Michael Chace Michael Collins Juliette Depont Renee Doyle Dr. Thomas Edwards  
Velma Emery Everett Estabrooks Thomas Fraca Anna K. Fenton Alan George Theresa Horky  
Timothy Kirby Lee Lobelenz Alan Lockhart Lloyd Lockhart George Maroun Jane Martin  
Patricia Meadow Krystine O'Conner Michelle Nydam Thompson Robert Pergakis Archie Ricciardi  
Anthoy Ryan Pattie Ryan Timothy Ryan Adel Salim Magthilda Salim Tim Salisbury  
Michael Sherr Edward Stone Lou Tisbert Pat Vassallo Ralph Whitney Jason Salim

Thank You,  
Archie Ricciardi  
617-347-1689

(Received July 20, 2015)

Massachusetts Gaming Commission

101 federal Street 23<sup>rd</sup> floor

Boston, Ma. 02110

CC. Commissioner Zuniga, Dr.Lightbown

Commissioner Cameron; as I watch many of my fellow horsemen continue to suffer great financial peril I look at what's next. A week ago I had George Carney getting ready to present a plan for a 30 day meet at Brockton which would have helped so many horsemen financially and helped us all move forward. However, George was involved in a serious car accident last Sunday evening leaving him with a fractured sternum and in a lot of pain. While this doesn't end that possibility, it certainly has set things back. I spoke to George this Sunday and he appears to be on his way to recovery, remarkable at his age.

I also had a major breakthrough with the Stronach Group, on Thursday afternoon I received a call from Tim Ritvo, the Chief Operating Officer at The Stronach Group, he told me his company had reviewed everything I had presented to him including all the members supporting his group and that they would like to be all in here in the Commonwealth. He asked me what I thought would be their best options to move forward with racing, we both agreed that attempting to lease Suffolk Downs for a year or two would help pave the way for all of us. I asked Tim if it would be possible for him to speak before the Commission on July 23<sup>rd</sup>, he said he thought that would be great but needed to clear it with corporate, he said he would call and let me know on Saturday.

On Sunday Tim called me and said that corporate asked him to call Richard fields at Suffolk Downs and open up some dialog in regards to a possible lease, he did. Tim told me the conversation was open and went well, Mr. Fields said he still felt as though Everett might not make it and that Suffolk wanted to remain a possible casino location down the road. Tim had said that while they're waiting a lease of the track would allow racing to resume and would fill in a void for all concerned

and also allow them time to consider building a new facility somewhere in the Commonwealth. Stronach views the Boston market as being untapped with unlimited potential; they're looking for an opening to make it possible. As of late Sunday Tim wasn't sure if he would be able to make it on the 23<sup>rd</sup> but said he would email the commission to verify to you their interest in making Massachusetts part of their success story.

The last item that has me up at 1:07am at my laptop is the Suffolk/Lou Raffetto/Anthony Spadea 3 days of racing. My original position and that now involves 300 plus horsemen hasn't changed, the three days will permanently damage racing as we know it. The Majority of the breeders now agree that holding the stakes out of town will allow a safer and more sensible schedule for the trainer and the horse. The three days in no way benefits the local horsemen or any of the local vendors, it does not bring back any of the jobs lost over the past year. To quote one of my favorite commissioners (Enrique Zuniga) "one of the biggest issues when making decision involves its sustainability", in other words where does this investment take us long term. In the case of the three days of racing it has no sustainability and leads us down a very dark road, we have better options.

With the advent of dialog between Suffolk and Stronach I would hope that you would at least delay the August 8<sup>th</sup> race day and allow the possibility of other options which would carry the sustainability we're all searching for. Stronach will remain a strong option for all of us as long as the simulcast signal is open and available, running even a day at Suffolk would put an end to the lease discussions between Suffolk and Stronach and an end to any meaningful race meet in the near future.

In closing, I had a chance on Saturday to speak with Alan Lockhart, a third generation Boston trainer. Alan is a current HBPA board member and has all of his horses at Finger Lakes Race track in New York while he and his family own a farm in Massachusetts. I asked him how he was doing, Alan said "I'm flat broke and looking for answers", I asked him then why are you supporting the 3 days at Suffolk? He answered I'm not, he told me he like a couple other board members

do not attend any of the board meetings they instead choose to avoid them all together. Alan told me decisions are being made by one or two people without a roundtable vote and I sensed from Alan that he felt great pressure to agree with certain members even though he felt as though it was the wrong thing to do. Alan told me that if we could get an investor like Stronach to come into Massachusetts he would support them 100%. Like many of the Massachusetts trainers racing out of town they would click their heels together and recite Dorothy's famous line, "There's no place like home" and there's nothing like a full and meaningful race meet. Sometimes we believe something is better than nothing, in this case nothing is best. Nobody gets hurt if we wait and weigh all of our options while many of us and the future of Massachusetts racing will suffer if we move forward with the boutique race plan.

Sincerely, and with great respect

Bill Lagorio

36 Witherbee Avenue

Revere, Ma. 02151

617-593-2982

**From:** Velma Emery [<mailto:pemburyhouse@aol.com>]

**Sent:** Sunday, July 19, 2015 4:01 PM

**To:** MGCcomments (MGC)

**Subject:** Mass-Bred Horses/Suffolk Downs

to: Mass. Racing Commission

July 19, 2015

As a long time breeder of Mass-Bred Thoroughbreds and as a person once heavily involved with the thoroughbred industry, I wish to state that I do not support three days of racing at Suffolk Downs. Three scattered days of racing will not provide the opportunities to race that were the reason we produced thoroughbreds born in Massachusetts.

The catastrophe of Suffolk Downs closing has resulted in the sale of my farm, Pembury House, in Sutton (except retaining a few acres). Although at one point, Pembury House (and my former farm, Butters Farm in Wilmington), supported three breeding stallions and mares producing foals each year, the lack of racing has forced me to disperse all but one broodmare, and her foal was not born in Mass. this year.

Loss of breeder & owner awards that would have been earned by the Mass-Bred that I currently have racing at Finger Lakes has cost me over \$10,000 in awards. I would prefer to see the Mass-Bred races run on a normal schedule at Finger Lakes (where the majority of Mass-Breds have migrated).

Allowing Suffolk Downs to hold a one day meet would prove to be a hardship for the horsemen and the horses. Its obvious that Suffolk cares little about such hardships, they obviously only want to hold on to the simulcast signal, thus discouraging possible new investors who could bring racing back to Massachusetts. New investors with plans to revive racing, (an industry that presently is crippled by Suffolk Downs closing), are said to be interested.

In closing, I repeat that I DO NOT SUPPORT THREE DAYS OF RACING AT SUFFOLK DOWNS! There is no reason to believe that 3 days will help the breeding industry in any way, it will only benefit Suffolk Downs.

Velma Emery  
190 South Rd.

Salisbury, NH 03268

telephone 603-648-2372  
email:

[PemburyHouse@aol.com](mailto:PemburyHouse@aol.com)

From: Terri Scheidel [mailto:[tscheidel@sbcglobal.net](mailto:tscheidel@sbcglobal.net)]

Sent: Sunday, July 19, 2015 5:18 PM

To: MGCcomments (MGC)

Subject: Suffolk Downs

To the Massachusetts Gaming  
Commission:

On October 4, 2014, after 4 years of blood, sweat, tears, and building relationships with the horsemen and staff of Suffolk Downs, my Mass bred won the 1st race on the last day of racing.

It should have been a great day for my family and the people who supported us as we tread through the racing waters to learn the way of going there.

Bittersweet to say the least.

Sad to say that I am not sure why I am writing this letter, as my last plea for a sane decision from you to vote for Suffolk, was obviously a moot point.

Obviously, a larger, more intricate agenda is underway here with Suffolk and the commission.

I will, however, in writing ask you to disregard the ridiculous request to grant an abbreviated meet to Sterling Racecourse to meet criteria for them to continue simulcasting.

It's the only reason this is being asked of you and is of no benefit to the horsemen of Massachusetts.

You have punished them enough.

You, in your decision to disband a historic venue and 1,000's of lives have punished us all enough.

Sincerely,

Terri Scheidel

Sent from my iPhone

**From:** williamlagorio [<mailto:williamlagorio@comcast.net>]  
**Sent:** Sunday, July 12, 2015 11:52 PM  
**To:** MGCcomments (MGC)  
**Subject:** Fwd: Suffolk horse racing

Happy Connecting. Sent from my Sprint Samsung Galaxy S® 5

----- Original message -----

**From:** Kevin Ruane <[mayo4026@yahoo.com](mailto:mayo4026@yahoo.com)>  
**Date:** 07/12/2015 5:18 PM (GMT-05:00)  
**To:** [williamlagorio@comcast.net](mailto:williamlagorio@comcast.net)  
**Subject:** Suffolk horse racing

Hi Bill

As a owner of a race horse at Suffolk the last two years and for it to close the way it did was a huge disappointment to me and my fellow partners and my great trainer. I really appreciate you keeping

Me updated and I totally agree that a 3 day racing is no good to anyone that relays on racing for a living or in my case it was a pastime which I really enjoyed and still miss. For there to be no live racing in New England is a big let down but I have hope when there is people like you trying to keep up the fight so again good look and thanks for the letters on the updates hope my opinion matter but probably not as you stated thank you again. Kevin Ruane Boston  
Sent from my iPhone



**From:** Mike Catalano [<mailto:mlcatalanoracing@gmail.com>]

**Sent:** Friday, July 10, 2015 4:17 PM

**To:** MGCcomments (MGC)

**Subject:** Horse Racing at Suffolk Downs

To Whom It Concern,

My name is Mike Catalano, Jr. I was a long time resident of Everett MA, now living in Florida. Despite my history as a 3rd generation Suffolk Downs horseman and one of the track's top trainers in the 90s and early 2000s, low purses and bad track management forced me out of state to provide for my family. Since then, I have been in the standings at tracks like Delaware Park Racing and Casino, Parx Racing and Casino, Calder Racing and Casino, Gulfstream Park, and Penn National Gaming, among others. With the hope of better racing on the horizon for Massachusetts, I returned to Suffolk for the last 2 seasons as one of the top trainers and the top percentage trainer in 2013. I feel qualified to speak on racing as a whole and Boston racing (as it is referred to in the industry) specifically.

Boston is known throughout the racing industry in this country as the most undeveloped, underutilized racing venue in the U.S. WHY, you may ask? Let me tell you. Since the 70s, Suffolk Downs has tried to get assistance in one form or another from the state, hoping for a casino (known as the golden ticket to a track owner), and track management passed many, many opportunities to better racing along the way in hopes for the "golden ticket".

Suffolk and its owners along the way have deliberately mismanaged the track and run it into the ground, directing all assets and finances to the reach for a hand out and a casino. Suffolk is located on one of, if not the most, desirable pieces of property just miles from downtown Boston, and it should be a number one destination spot in Massachusetts, featuring great restaurants, shopping and providing locals and travelers alike with top entertainment, concerts and the best horse racing on the East coast. I find it interesting that so many, across the country, can see Suffolk's full potential, but those closest can only see its history of mismanagement.

I speak weekly to many people about Suffolk, inquiring about its fate, and every one of them speaks of the tragic missed opportunity to bring something great and lasting to the area they are so fond of. They all hold a certain contempt for the way things have or have not happened for the track, but are ever hopeful that there will be one last one-of-a-kind chance to bring Suffolk back to its heyday.

I am concerned that this board of the HBPA does not represent the true voices of horsemen who will be filling the entries when racing resumes on a regular schedule. In order for racing to thrive in Massachusetts, or any state, there needs to be a couple things intact or it will never reach its full potential:

- 1) A minimum number of days that will correspond with a sister track, so that the racing community can run their businesses and plan their lives accordingly. A racing season that goes from Derby Day on the first Saturday in May to mid-November would fit perfectly with winter racing at several other tracks.
- 2) A purse structure that's on par with racing in 2015 and future projections, ensuring that the quality of horses who race in Massachusetts can also compete on the winter circuits and keep the racing stock quality and numbers vibrant.

3) A top class presentation to all who visit.

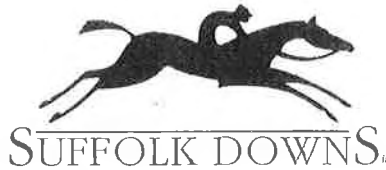
*These things will make racing prosperous in the future years.*

Picture this: pulling into Suffolk to have lunch at PF Chang's or another top restaurant on site for a business meeting, with the back drop of the best racing on the East coast. College weekends where we bring in students from Boston's many campuses to relax and enjoy the Sport of Kings with their friends like they do in Kentucky. There are dozens of quality schools in the metro area with students looking for entertainment, and Suffolk is just a short train ride away. Families that can no longer afford to go to a ball game can gather and picnic while watching their favorite horse come down the lane. BBQ trackside with the boys while the girls do some shopping in the many stores located here. Families spending time together, learning how to handicap the races and pick out the best looking horse, regardless of whether they spend 2 dollars or just enjoy the day. Skyboxes that many Boston-based businesses own or lease to bring their employees and partners out for some enjoyment or use to entertain new clients.

These are just a few of the possibilities that so many horsemen, racing fans, and enthusiasts see when we think of racing in Boston. I ask you this: who wouldn't want to be part of a thriving business like Suffolk Downs at its best? What about Frank Stronach? Mark Wahlberg? John William Henry? Robert Kraft? Or one of the many successful entities with strong Boston ties? I hope that this opportunity isn't squandered.

Thank you sincerely for your time. Please feel free to contact me if I can be of any help to racing and the Massachusetts Gaming Commission.

*M.L. Catalano, Jr.*  
(302) 290-6627



July 8, 2015

Ms. Catherine Blue, General Counsel  
Dr. Alexandra R. Lightbown, Interim Director of Racing  
Massachusetts Gaming Commission  
101 Federal Street, 23rd Floor  
Boston, MA 02110

Dear General Counsel Blue & Dr. Lightbown:

I write in response to your memorandum dated June 30, 2015, requesting clarification and additional information with regard to our plans for the three days of racing we have requested for 2015. Below, I have copied your questions (which appear in bold type) and followed each with our response.

**1. How will Suffolk ensure the track surface is safe with very limited training before racing?**

The Suffolk Downs' track surfaces will be maintained in a manner consistent with prior years and in a manner consistent with the safety standards that we have developed in conjunction with the MGC (e.g., NTRA Safety Alliance standards). These standards are maintained regardless of the frequency of training. We will begin preparation of the racing surfaces several weeks in advance of the actual race dates.

**2. Please explain whether the track will be available for training prior to the race meet.**

The track will be open for training one day in advance of each proposed day of racing and on the morning of each race day. There is no plan for the track to be open for training for extended periods prior to the race meet beyond that. It is our expectation that horses entered to start for each of the race days will have been training wherever they are stabled prior to shipping to Suffolk Downs. Horses will not be allowed to enter without meeting the required veterinary standards and published work-out requirements.

**3. Please explain whether the entire grandstand/clubhouse will be open for the race meet and what services will be available, i.e. food or other concessions.**

The clubhouse, which is completely open for simulcasting, and large areas of the grandstand will be open, including restaurants and concessions. Some areas of the

Telephone: 617-567-3900  
525 McClellan Highway, East Boston, Massachusetts 02128

Made in Massachusetts

grandstand have not been open for several years and will not be re-opened for these race days.

4. **If dorms aren't available, what contingencies will be made in case of fire and horses need to be moved quickly? If dorms are available, where is the money to re-commission them coming from? What type, if any, of food service will be provided?**

On the availability of dormitories, in order to open the dormitories for occupancy, Suffolk Downs is required to obtain a "Farm Labor Camp" license from the Commonwealth of Massachusetts and we are in the process of refurbishing the dorms and obtaining that license, which will allow us to provide temporary lodging for up to 48 people in the barn area. Costs associated with the dorms are part of SSR's live racing expenses and are included in the budget provided in response to question number 4.

With respect to fire and other emergencies, we will have ample stabling for the approximately 100-125 horses that will be required for each race day and 24-hour security in place to be able to facilitate the movement of horses in case of emergency. Per city ordinance, the City of Revere Fire Department will maintain a 24-hour fire watch once horses enter the property.

As to food services, we will have canteen services in place for the people tending to the horses in the barn area

5. **How does Suffolk plan to assist the Commission in licensing the occupational licensees who wish to participate in the races—what space and equipment will be available to the Commission to process the license applications?**

Suffolk Downs will provide office space and equipment, phone lines and Internet service available to the MGC on-site. In addition, Suffolk Downs and NEHARC will identify as far in advance as possible individuals and materials required for licensing in order to expedite the MGC licensing process.

6. **Please provide a detailed budget. The budget should describe the estimated revenues from the 3 days of racing, how those revenues will be distributed, the expenses incurred by Suffolk and the NEHBPA, and how the portion of the race horse development fund to be provided to Suffolk and the NEHBPA will be used.**

A budget for Suffolk Downs' revenue and expenses for the three days of live racing is attached. It projects a deficit of approximately \$330,000 from live racing operations. Suffolk Downs intends to fund that deficient from revenues earned through its simulcasting operations.

With respect to the race horse development fund, and consistent with our prior request, \$1.2 million of the \$1.75 million RHDF monies requested will be used to pay overnight purses, \$225,000 will be used for NEHBPA administrative

expenses (which include member insurance and other safety and welfare programs) and \$325,000 will be allocated toward the NEHBPA's efforts to find its own racing facility in Massachusetts.

**7. Who is paying Lou Raffetto? Who is he working for? What is the relationship between Suffolk and the NEHARC and the relationship between NEHARC and the NEHBPA?**

Lou Raffetto is the President and sole employee of NEHARC. We understand he was also a consultant to the NEHBPA until May 31 of this year. We are not aware of what, if any, business relationship exists between NEHARC and the NEHBPA. Mr. Raffetto does not work for Suffolk Downs, and we do not pay him.

Should the Commission grant the requested racing dates, Suffolk Downs plans to enter a consulting agreement with NEHARC whereby NEHARC will establish the racing conditions for the meet and manage live racing operations, including recruitment of horses and racing personnel for the three days of racing.

**8. Who are the racing officials, gate crew, outriders, etc. you are planning on employing?**

Former Suffolk Downs Racing Secretary Tom Creel has committed to returning for 2015, along with several members of his 2013 and 2014 staff including the starter, clerk of scales, outriders and other racing personnel. Tom, in conjunction with NEHARC, will be responsible for recruiting racing officials, valets and starters.

**9. How would the purse money trickle down to Massachusetts feed dealers, farriers, veterinarians, etc.?**

We expect that the same vendors and service providers from the last several years of operations, including local vets, blacksmiths, feed suppliers and transportation services, will be available, and, in turn, will provide services to the horsemen and women who enter the races and earn purse money.

**10. What percentage of the purse money would trainers/owners who supported Suffolk be expected to win? What percentage of their horses would meet the conditions of the races you plan to card?**

While an exact percentage will depend on the actual results of the races run, we are taking measures to ensure that local horsemen and women, especially those who supported the 2013 and 2014 racing programs, have ample opportunities to earn purse money. This takes several forms. We are including four races in the condition book for each day restricted to horses that have previously started at Suffolk Downs with purses totaling approximately \$110,000 for each day and we are looking at additional ways to encourage owners who stabled at Suffolk Downs over the last several years to enter this year's races. In addition, in conjunction

with the MTBA, we are planning three MA-bred stakes races with purses of \$50,000 each for each race day. And, of course, local owners and trainers will not be restricted from entering any of the races.

**11. How did you decide on what amount of purses you would hand out?**

We established the purse levels for the 2015 racing festivals to be competitive with other jurisdictions in the northeast and mid-Atlantic regions in order to be able to attract horses and stables.

**12. Is the money the purse account would normally receive from simulcasting and premiums being added into the purse account?**

Consistent with the Legislature's amendment of the racing statutes earlier this year, some funding from other sources that would traditionally go to purses (e.g., simulcasting) will be used to cover expenses of live racing and a portion will flow to the purse account, per agreement with the NEHBPA.

**13. Please give us a copy of the two year term sheet agreement referenced by the NEHBPA in its letter to the Commission.**

We are not sure what you are referring to by the two-year term sheet agreement. We entered an agreement earlier this year with the NEHBPA (and NEHARC) that is no longer operative. That agreement was premised upon the NEHBPA supplementing its application for its one-day "placeholder license" with it or NEHARC being the licensee for live racing.

We have not yet completed a purse agreement with the NEHBPA for the three days of live racing that are the subject of our pending request to the Commission. We anticipate that the purse agreement will be consistent with the earlier agreement in many respects. We will provide the MGC our 2015 purse agreement with the NEHBPA and our 2015 consulting agreement with NEHARC as soon as they are final.

**14. Is the approximately 40% or \$200,000 guaranteed purse money the money already set aside for MA bred, or is this above and beyond the MA bred monies?**

I don't think that SSR provided the figure referenced here. You may be referring to figures from a communication from NEHARC. Perhaps this answer can provide some clarification. As you know, the Mass. Thoroughbred Breeders Association (MTBA) receives funds from various sources, including Suffolk Downs, pursuant to the racing statutes and uses those funds for purses for races held at Suffolk Downs that are open only to horses bred in Massachusetts. As described in the answer to question 10, we are planning to have three MTBA-funded MA-bred races on each of the three days, with purses of \$50,000 per race, or \$150,000 per day. This money will not come from the RHDF overnight purse

funds, but rather is separately available to the MTBA. There is no plan to supplement the MTBA funding for MA-bred races.

However, the MTBA-funded, MA-bred races are separate from, and in addition to, the races that will be limited to horses that have previously started at Suffolk Downs. Purses for those races will be funded from the purse account, not from the funds allocated to the MTBA.

**15. Has Suffolk paid all the city taxes they owe to Boston and Revere?**

Yes. Suffolk Downs is current with all its local tax obligations.

**16. Are you giving out purse money for the steeplechase races?**

Yes. Purses for the steeplechase races are in the condition book attached.

**17. Please provide us with a condition book.**

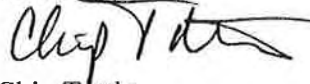
Attached.

**18. Please provide copies of insurance policies in place to cover racing activity at Suffolk.**

Copies of insurance binders attached, not including some of the coverage for live racing as we will not obtain that coverage until such time as dates are awarded. We will be happy to provide it at that time.

If I can provide any further information, please do not hesitate to ask.

Sincerely,



Chip Tuttle  
Chief Operating Officer

**From:** jim downing [<mailto:jpd1118@yahoo.com>]

**Sent:** Wednesday, July 08, 2015 4:48 PM

**Subject:** recent letter

Hi Billy,

Thanks for your recent letter. Let me know when the next meeting is because I'm hoping to attend. I'm writing to give you information about a Mass. Breeder named John Steill. He has 4 Mass.breds of racing age right now. Maybe you have been sending him info because he seems somewhat informed. I know he talks to George Brown. Away, his phone number is (508) 947-1758 and his address is 295 Cherry St., Middleboro, MA 02349. I'll give him your number as well.

Thanks for all you are doing.

Let me know if I can help. We are still dealing with our move to Hull and I'm commuting to Ashby to ride Ryn, but I'll help if I have time.

Also, count us among the 300 who have lost their job, had to move (which meant our renters had to relocate too), can't be with family and want to own and train in Boston where it's not as hot as FL or the Mid-Atlantic states.

Regards,

Marsha Downing



**From:** Lawrence. [mailto:lmason2121@aol.com]

**Sent:** Friday, June 26, 2015 10:07 AM

**To:** MGCcomments (MGC)

**Subject:** Re: Meeting Notification and Agenda for June 25, 2015

Dear BOArD of the Mass Gaming Commission,

My family and I are glad that attorney Blue and Alex are doing a great job looking into what is going on with the close relationship between Lou Raffetto and Chip Tuttle.

Everyone loses sight on the Big Picture the Horses! They need daily care and it cost so much. However, we do it because we love it. All our hard work to get to this point and now we are no longer needed. How could this happen!

Our NEHBPA said we (local horsemen) will have a training center and a van to pick us up and drop us off. All empty statements. We need to follow racing rules with respect to published work outs and Starting Gate Cards. It would take a \$ 2,000 dollar insurance policy to ship into a race track 5-6 hours away to be compliment with the rules of racing.

All the NEHBPA is worried about is money for themselves and pay the positions in the organization. Not one dime to the folks that paid them \$ 10.00 every time we started a horse! Johnny come lately Lou Raffetto is working harder for the race track then the members of the NEHBPA unless you have a Mass breed or a BOARD member with restricted races. Who is paying him and who does he work for?

While the President of the NEHBPA can go to the other BOARD he sits on (mass breeders) and ask for money from their account of money from the State, we are struggling and our families are suffering. Must be hard on Suffolk Downs to cry they lose money when they make \$ 10-18 million in simulcasting revenue per year.

It was all the folks that lived on the backside in DORMS that came to the rescue of all those horses on the backside during the kitchen fire and now they say no rooms available for horsemen and help! Well thought out plan. Cheapness is no way to go on the issue with the safety and wellness of a horse!

With respect to the Steeple Chasc Raccs, why is Lou more concerned for the people and jobs he held in the past rather then the residents of this State? You can't allow anyone to kill of any horsemen in this State that supported the NEHBPA and Suffolk Downs for years!

Very disturbing and unacceptable.

Sent from my iPhone

**From:** Anthony Gaudiana [<mailto:tradewinds009@gmail.com>]  
**Sent:** Friday, June 26, 2015 10:51 AM  
**To:** MGCcomments (MGC)  
**Subject:** HORSERACING

DEAR COMMISIONERS,

The following letter was a sample of what cropped up to be a feeble attempt to direct constructive dynamic's for horse racing. I was never contacted or acknowledged other than a second hand comment by Mr. SPADEA'S Trainer saying Mr. Spadea thought the letter was good. I bypassed follow-up because George Brown was actually heading up the Mass Breeders program at that time.

The whole context of making the Mass Breeders the whipping boy for the current state of racing was preposterous. The primary and most influential problem was that of an inferior race track which would have run into the millions to address.

So one smokescreen after the other continued to effectively manipulate the course of thoroughbred racing in the wrong direction, with a; who gets what? when? and where? mentality. I believe I was considered an upstart and partially shunned after this presentation.

- Dear Mr. Fields,

This letter is sent directly to you on behalf of the Mass Breeders Organization to clarify our status as well as our goals. As you are aware we have had several meetings with representatives of Suffolk Downs regarding our position and concerns. The Mass Breeders Program had hoped to hear from you personally, regarding your views and subsequent input that we consider extremely valuable. Because we received no communication, we wondered if you had received a valid and accurate account of the meetings and had the time to review our group's position in the Suffolk Downs racing program and the factors bearing on the status and quality of the program. It has been repeatedly proposed by some representatives of management that the program lacks the desired level of competition that projects as appealing racing to the general fan market.

While this does pose some validity, it is limited in complete content, slightly out of context and disregarding potential for future improvement. We would appreciate an opportunity to review the program with you and point out significant circumstances that have retarded its development as well as our long-term goals for improvement, which is presently in a transitional period. It should be pointed out that we are not isolated in our predicament as the projected future of all racing in Massachusetts is circumstantially stagnant.

As a group, certainly we are not completely satisfied with our current grade of competitiveness however, our goals to raise the bar to the quality of other models of state racing programs with national success is still

an underlying factor with respectful participation in the Massachusetts Racing Industry in mind.

Economics is the key element at the root of quality production, not only in our program but also in all Massachusetts racing, and with the looming darkness of closing down hanging over us because of the suppression of gaming by the House of Representatives; it is very difficult to rationalize speculative spending beyond practical investments for upgrades presently.

This letter is not an instrument to excuse our merits, which have not been fairly assessed at times, but to define our commitment to higher standards and show that our productive growth has had very valid reasons for the lack of more constructive progress. We would also like to make note of the obscure beginnings of other state programs that have arrived at a level of prominence. The New York Breeders program at its onset had great difficulty and received much criticism from within in its early development. For instance, in its onset, the program had difficulty making a maiden race go more than once a month. When it did fill, it was a group of horses made up of three year-olds and up, with colts and geldings racing in mixed company against fillies and mares and suffered much ridicule from within the industry. With diligent management, it finally emerged as a quality program that produced Funny Cide to win the Kentucky Derby one of racing's most coveted jewels. More recently Florida and Pennsylvania have become very functional programs that have stimulated owner interest to participate with attractive economic benefits at an acceptable national level.

Winning and breeding potential constitute the generation of investment capital and the better the product the more interest is generated. Success on a national level is the goal of all marketing production and the pursuit of this is the inherent goal of all programs no matter what format.

There is not one breeder in Massachusetts that would not relish the acquisition of national quality bloodlines, be it mares or studs but the parameters are dictated by economics.

Our goals, hopes, and intentions are to get to that threshold but to do so we need a confirmation that racing will stay alive in Massachusetts with a new infusion of funding that allows us to be competitive with other states in much the same manner as Suffolk Downs itself.

Many breeders have examined possibilities of stud leasing and cross state breeding, dropping the foals to meet Mass Bred requirements, to upgrade the stock quality, but the expense to reward ratio has discouraged it with so many other prospects for an enterprise that carries such a substantial investment. Taking part in a program and excelling to more than that of a captured audience in a single arena is not the ultimate goal of a breeder but a concession that offsets costs of operation to encourage endurance for long-range goals.

In our defense, despite our racing evaluation in house, we are active as a fundamental segment in racing, entering races in volume to help make-up races and help race cards fill. I also think it's a valid point to call to your attention that the program has produced horses that have been competitive and won at all levels of open racing at Suffolk Downs including Open Stake Races. Some of these horses have gone on in the off-season at Suffolk Downs to participate in other racing circuits and have been competitive at various levels. It is a group consensus that some of the scrutiny we receive is exaggerated and unwarranted as it is targeted out of context to influence support that would benefit groups with other agendas. Some of the scrutiny aimed at the program is stimulated by a misunderstanding of how the purse money is appropriated through the Department of Agriculture as it is often misconstrued as usurping it from the private purse structure.

Another very relevant point to consider is the affiliation of the Mass Breeders Program with the State Agricultural Program, which not only subsidizes funding for racing purses, but also serves as an affiliation with horsemen that carries substantial influence in the political arena, being regarded as a foundational constituent interest written into the bylaws of the state. This is certainly an aspect that will carry influence in House sentiment as significant rationale in passing new gaming laws.

Now the statistics we project presently are practically arbitrary; the reason is fundamentally rooted in the programs diffusion caused by the track closings for lengthy periods when foundational segments were undergoing strenuous development at times that quality was on the rise. These times brought about a standstill as well as dispersal of key elements in breeding that took a considerable amount of work, time and finances. Calling it a setback is a drastic understatement. It was surely disheartening both for future visions and financial footholds as the hardships that were endured were monumental obstacles.

To the credit of many dedicated horsemen and horse lovers the Mass Breeders rose up to attempt a restoration of the program under great adversity.

Now in a critical stage of transition we are stifled to speculate financially on future endeavors with the continuing uncertainty of the future of racing in Massachusetts.

We ask to be acknowledged as existing under these conditions with our commitment to higher standards understandably suspended due to circumstances and receive appropriate considerations to maintain our identity and move forward on positive note for the future of racing when a tangible opportunity is present.

**From:** williamlagorio [<mailto:williamlagorio@comcast.net>]

**Sent:** Tuesday, June 23, 2015 2:59 PM

**To:** MGCcomments (MGC)

**Subject:** Suffolk Downs/Simulcasting

Commissioners, Cameron, Zuniga, Stebbins, McHugh, and Chairman Crosby; As everyone awaits a decision on the 3 day racing application, we as a group stand firm against it. The largest issue here is that Suffolk Downs fully understands the importance of the simulcast signal, that's the reason they're willing to run any of those days. If Suffolk is allowed to continue simulcasting we won't see a full race meet for years, thus putting all the local horsemen and breeders out of business. We understand there are jobs at stake there, with 25 tellers and approximately 8 people working the backside but the bad outweighs the good in this case. I love Suffolk Downs it's in my blood and soul, but sometimes you have to demonstrate tough love for the greater good. When I spoke before you on June 11th, I mentioned the desire investors would have in Massachusetts Racing based on our 4 key ingredients. Mr. Spadea stood up and responded that he had spoken to George Carney and the Stronarch Group and neither had any any interest, not true in either case. I've been the only one speaking with George Carney and this past Friday I had a chance to speak with Tim Ritvo, who is 2nd in command at The Stronarch Group, a company which owns and operates the largest and most successful tracks in the United States. Tim has local ties, having grown up in Revere and making a living at Suffolk Downs as a jockey for years. I talked with him about our situation and talked about the June 11th hearing. I told him Mr. Spadea mentioned that Stonarch had no interest in Massachusetts Racing, he said "Billy that's a lie". Tim told me they were very interested in moving into the Commonwealth and that the HBPA showed no interest in them, he said the final blow to them came with the hiring of Mr. Raffetto, a former Stronarch employee. Tim said we are still very interested in making Massachusetts Racing great again, and we have the team to do it.

The Stronarch group would come in, look to lease Suffolk Downs for a couple of years and either eventually purchase it or they would build a new facility themselves. The beauty of this plan is next year it would allow us to run a full and meaningful race meet at Suffolk Downs and employ hundreds at a track which is now clinging on to about 30 jobs.

This HBPA's plan follows the model in Alabama, where racing had run into difficulties and with no viable plan in place they kept their HBPA funded for about 5 years with no racing.

It's not the two or three of racing that will kill us, it's the fact that tied in with that, Suffolk Downs will have the right to continue simulcasting and will never look to lease the facility to a real racetrack operator. We must stop the signal if we are to move forward. Nowhere in the United States do we have a self owned and operated racetrack, the plan would take years to complete if it ever gets off the ground. Stronarch would come to Commonwealth with a strong plan in place and no funding required. Why wouldn't we take a good hard look at the best in the business looking to make Massachusetts part of their success story?

As far as the breeders go George Brown, the president has been painted into a corner and feels as though he has no reel options, I believe he does. Certainly the stakes could be run out of state, allowing the breeders more time to prepare and a more balanced schedule of stakes races. I would just like to mention that in 2013 George Brown foaled out 28 babies at his farm and this year he foaled out 4. Doesn't appear as though he believes we're headed in the right direction and you can see where the breeders program is headed.

This past Thursday at a Mass Breeders Board meeting, Mr Spadea who also sits on that board convinced the other members to advance his HBPA board \$25,000 from breeders monies to keep funding the HBPA, Certainly not proper use of those funds. Mr. Spadea blocked the efforts of both George Carney and Tim Ritvo of the Stronarch Group to come in and format a sensible plan to move racing foward without interruption, Mr. Spadea is however working very hard to keep the HBPA funded at a time when the logical thing to do is layoff some of that staff and reduce the large payroll.

I know Mr. Raffetto will tell you that his plan is time sensitive and that his first racing day is scheduled July 11th. He had sent out to all of the out of town trainers in New York, New Jersey, Delaware, and Maryland a list of races for that date weeks before the June 11th hearing, a bit premature. I believe we need to step back and look at better options we have available, once Suffolk Downs runs a day of racing we not only kill our other options but we for all intents and purposes we kill the local horsemen.

With Great Respect  
Bill Lagorio  
36 Witherbee Ave.  
Revere, Ma. 02151  
617-593-2982



June 29, 2015

Dr. Alexandra R. Lightbown, Interim Director of Racing  
Massachusetts Gaming Commission  
101 Federal Street, 23<sup>rd</sup> Floor  
Boston, MA 02110

Dear Dr. Lightbown:

Please be advised that Sterling Suffolk Racecourse, LLC is amending its supplemental application for live racing dates in 2015.

The new dates are August 8, September 5 and October 3.

Sincerely,

Chip Tuttle  
Chief Operating Officer

c.c. Stephen P. Crosby, Chairman  
Gayle Cameron, Commissioner  
Enrique Zuniga, Commissioner  
James F. McHugh, Commissioner  
Bruce Stebbins, Commissioner

Telephone: 617-567-3900  
525 McClellan Highway, East Boston, Massachusetts 02128

Made in Massachusetts

# *New England Horsemen's Benevolent and Protective Association, Inc.*

*President*  
Anthony Spadea

*A National Organization*

*Acting Executive Director*  
Bruce P. Patten

*Directors: Owners*  
Randy Andrews  
Susan Clark  
Shirley Dullea  
Manfred Roos  
Paul Umbrello



*Directors: Trainers*  
Jay Bernardini  
Matthew Clarke  
Alan Lockhart  
Kevin McCarthy  
George Saccardo

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WWW.NewEnglandHBPA.com

June 16, 2015

Stephen Crosby, Chairman  
Massachusetts Gaming Commission  
101 Federal Street 23rd Floor  
Boston, MA 02110

Re: Public Hearing held on June 11, 2015.

Dear Chairman Crosby:

On behalf of the New England HBPA Board of Directors and the owners and trainers of Thoroughbred horses racing in Massachusetts, I am writing to correct the record of the public hearing, held on June 11, 2015, regarding certain false accusations intended to besmirch the reputation and earnest efforts made by the NEHBPA Board of Directors to permanently retain the presence of live Thoroughbred racing in Massachusetts.

As the Commission and its staff are aware, the NEHBPA has been actively negotiating with Suffolk Downs, since late September 2014, to lease their racing facilities for 65 days of racing. While negotiations were in the early stages, the NEHBPA evaluated former racetracks across the Commonwealth, including Raynham (contrary to a false statement presented at the June 11<sup>th</sup> public hearing). It quickly became apparent that Suffolk Downs was the only viable location to conduct professional and safe racing without spending huge capital costs to bring a former track up to modern standards. In addition to the capital costs to upgrade a track, either lease or purchase costs would have to be paid. The time required for the community approval process, local permitting and the subsequent length of the construction process would assure that racing would not be conducted in 2015. Since capital funding was not available to the horsemen and the NEHBPA could not acquire a loan without assets for collateral, a lease arrangement, paid from pari-mutuel proceeds, with Suffolk Downs was the only option for returning professional Thoroughbred racing to Massachusetts in 2015.

The NEHBPA, with assistance from Suffolk Downs, filed for a place holder racing license, at the end of September 2014 to preserve a reasonable chance for live racing in 2015. As negotiations proceeded and the parties exchanged information, the NEHBPA decided to seek the advice of a nationally recognized expert, who has extensive experience in operating racetracks, to assure that we would be able to run a professional race meet in 2015. The NEHBPA engaged Louis Raffetto in October 2014 to provide advice and to eventually conduct the live race meet as General Manager.

MASSACHUSETTS GAMING  
COMMISSION  
2015 JUN 22 PM 12: 29



Beginning in late September and through early December, the NEHBPA's evaluation of the negotiations with Suffolk Downs led to the expectation that a 65 day meet would be realistic and that the parties were very close to reaching agreement. With these circumstances in mind and a signed contract (pending Commission award of a racing license to the NEHBPA) with an advanced deposit wagering provider in hand, the NEHBPA submitted a supplemental racing license application (for 65 days of live racing at Suffolk Downs) prior to the end of November 2014. Given the expectation of an imminent lease agreement and hopeful that the Commission would be able to approve the racing license, after due process, in time to notify horsemen before they make arrangements for stalls assignments at other racetracks.

On December 3, 2014, after meeting with Suffolk Downs officials, NEHBPA was informed that our best offer could not meet the lease requirements desired by Suffolk Downs. It became very clear that Suffolk would no longer consider a lengthy meet, even a 50 day meet was rejected and Suffolk Downs further informed the NEHBPA that they intended to pursue simulcasting without live racing.

On December 8, 2014, the NEHBPA issued a letter to the Commission withdrawing the supplemental racing license application. This action marked the termination of any hope for operating a lengthy race meet in 2015 and the beginning of an approach to Suffolk Downs officials to lease their facilities for a few race days to keep Thoroughbred racing alive in MA, provide some opportunities for the horsemen to earn purse awards and for the MA Breeders to conduct their annual stake races.

December 8, 2014, the NEHBPA engaged the services of Atty. Nicholas Scobbo to draft a legislative bill designed to create a quasi-state entity for the purpose of constructing a family oriented Horse Park, which will include a modern racetrack, facilities for equestrian events, horse retirement, agricultural events and community events, etc. As of this date, the bill and associated documents are complete and in the process of formal filing at the Massachusetts State House.

At the end of December, the legislature approved a temporary racing license with simulcasting authority for Suffolk Downs to conduct simulcasting through March 31, 2015. The temporary license provided more time for the legislature to consider an extension of Suffolk Downs' racing/simulcasting authorization through 2016 and provided additional time for Suffolk Downs and the NEHBPA to work out an agreement for the continuance of a few days of live racing in 2015 and 2016 as bridge to the NEHBPA's goal of constructing a racetrack for 2017.

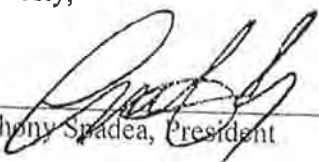
The NEHBPA and Suffolk Downs continued to negotiate for several days of live racing and on March 3, 2015, the parties reached a two year agreement to a term sheet, as a frame work for a contract, which would assure Suffolk Downs' commitment to apply for a three day race meet in 2015 and 2016. Since that date, the parties have been working out details for running three race days with a month between each day.

As of this date, Suffolk Downs' application for three days of racing in 2015 has been filed, a public hearing has been held and application is pending before the Commission.

The NEHBPA Board of Directors have expended countless hours under very frustrating circumstances of having to develop plans and solutions for all of our horsemen and to preserve live Thoroughbred racing in Massachusetts while dealing with numerous unanswered questions, which could only be answered by other parties. Unfortunately, a few key questions remain unanswered. One of those key questions is: Will we be able to race three days in 2015? Hopefully, that answer is YES.

We urge you to make a favorable decision on the Suffolk Downs live racing application. It is important to us, that a decision is reached promptly. A delay resulting in a favorable decision would be very harmful to the success of the proposed 2015 racing program, while a delay resulting in an unfavorable decision would unnecessarily continue the frustration of uncertainty in the lives of our horsemen and their families.

Sincerely,

  
\_\_\_\_\_  
Anthony Spadea, President

Cc: Gayle Cameron, Commissioner, Massachusetts Gaming Commission  
Rick Day, Executive Director, Massachusetts Gaming Commission  
Alexandra Lightbown, Director of Racing, Massachusetts Gaming Commission

# *New England Horsemen's Benevolent and Protective Association, Inc.*

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June 15, 2015

Stephen Crosby, Chairman  
Massachusetts Gaming Commission  
101 Federal Street 23rd Floor  
Boston, MA 02110

2015 JUN 22 PM 12: 29

MASSACHUSETTS GAMING  
COMMISSION

Re: Public Hearing held on June 11, 2015.

Dear Chairman Crosby:

On behalf of the New England HBPA Board of Directors and the owners and trainers of Thoroughbred horses racing in Massachusetts, I am writing to correct the record regarding certain unfounded allegations and misstatements made by several speakers opposed to the Suffolk Downs application for three days of racing in 2015.

The following quotes stated at the June 11<sup>th</sup> hearing are not correct:

Paul Brooker

Mr. Brooker stated: "If you look and try to find qualified and competent persons to fill the jobs of racing officials, racing personnel, and horsemen, this is a very improbable fact. It's not going to happen." .... "If you will look, you will see that is the consensus of opinion of the people here this is not a viable program."

FACT: Since Mr. Brooker has never operated a racetrack or recruited the personnel to operate a racetrack, He is totally unqualified to make such a statement. Similarly, he refers to the consensus of the people at the hearing, who also have not operated a racetrack, believe that the three days of racing is not a viable program.

Mr. Brooker stated: "I don't think the Jocks' Guild will go along with this either."

FACT: Terry Meyocks, Executive Director of the National Jockey's' Guild, had two conversations in the past three weeks with Bruce Patten, Executive Director of the NEHBPA, during which Mr. Meyocks informed Mr. Patten that the Guild is absolutely supporting the Suffolk Downs application for three days of racing in 2015.

William Lagorio

Mr. Lagorio stated: "The group I represent is comprised of the majority of local horsemen who have been the backbone of Massachusetts racing for many years. A good number of them are in attendance today and a good many more who could not be here today have submitted their letters of disapproval to the commission."

FACT: There were 123 form letters submitted (without email or residence addresses) approximately half of the form letters displayed names of NEHBPA members. NEHBPA membership is limited to owners or trainers who have recently raced horses at Suffolk Downs. The NEHBPA Board of Directors is the only entity that represents "the horsemen" that race in Massachusetts.

Mr. Lagorio stated: "You ask why we disapprove. It provides no meaningful long or short term benefits for the local horsemen, for the breeding program or for the local vendors and businesses

FACT: In the short term, the abbreviated meet plays a role in maintaining a presence of Thoroughbred racing in MA and will demonstrate that the NEHBPA horsemen under the guidance of General Manager Louis Raffetto are very capable of conducting a race meet, even under very difficult circumstances, MA Breeders will be able to run all of their annual stake races, two races will be restricted (each day) to horses that raced at Suffolk Downs and all qualified horses that raced at Suffolk Downs will have preference to enter all other races. In the long term, the NEHBPA has prepared a comprehensive legislative bill that will be imminently filled. The bill seeks to create a not-for-profit entity, acquire land in the Commonwealth, construct a racetrack and other equine facilities.

Mr. Lagorio stated: "As we continue to work on alternate racing solutions for this year and next, the horsemen believe that escrowing purse monies will give us our best opportunity to entice some professional racing entities that could take advantage of our four major assets. These are assets we've never had in the past but we have now.

"Those are: control of the very lucrative local simulcast signal, which currently while in the hands of Suffolk Downs, dilutes that ingredient. Number two: A fully funded breeding program that provides additional horses and a series of solid stakes races. Number three: A very strong purse base for many years to come as a result of purse supplements which (?) gaming as part of the Race Horse Development Fund. Number four: Is a per capita population that we all can attest is second to none when it comes to sports attendance and local gaming.

FACT: The NEHBPA is the only entity authorized to represent "the horsemen".

FACT: The NEHBPA has already submitted a request to the Commission to escrow either all or the remaining funds in the RHDF Thoroughbred Purse Account, depending on the Commission's decision regarding the Suffolk Downs application for three days of live racing.

FACT: Mr. Lagorio refers to four major assets that "we've never had in the past but we have now."

- 1) Control of the local simulcast signal: The NEHBPA has always had control of the local simulcast signal and annually takes formal action through the Purse Agreement authorizing Suffolk Downs to sell the signal throughout the nation and internationally.

- 2) The Massachusetts gaming law allocates the Commonwealth's Thoroughbred industry with the lowest percentage of casino proceeds of all states that that apportion funding from casino earnings. As a result, RHDF allocations to MA Breeders, the horsemen's purse account and horsemen's benefits, although very helpful to the Thoroughbred and agricultural industries, fall far short of the funding provided by other states.
- 3) See response 2) immediately above.
- 4) The Greater Boston population is not a new asset. It has been a consistent factor providing Thoroughbred racing fans for many decades.

Mr. Lagorio stated: "Since Suffolk Downs announced in October they would abandon live racing, our HBPA board of directors has managed our current affairs as well as our plans for the future in such a manner as to destroy the fiber of our industry and its people. There has been a total alienation of the average horseman without as much as a single phone call going on to explain their actions. And while all along the president of the board and its consultant, Mr. Raffetto, were claiming that they had the horsemen's full support. "The fact is they didn't, and they still don't. The board has left most of those who have stuck it out for years by the side of the road waiting for better days. Many are in a very difficult financial situation with nowhere to turn. Most members, including myself, relied on what we were being told and believed that the board was working toward a 50-day meet at Suffolk Downs.

COMMENT: Mr. Lagorio's statement is dishonest, absurd, vile and totally without foundation.

The NEHBPA Board of Directors consists of very experienced and long time owners and trainers, who volunteer their time and have a deep passion for the success of Thoroughbred racing. The NEHBPA does not own or control a racetrack nor does it have assets that can be used to seek loans. The NEHBPA is the only entity that has taken action to secure a long term future for Thoroughbred racing, to preserve all the associated jobs and agricultural assets in Massachusetts. The NEHBPA is the only entity that has taken action to bridge the short term live racing and job concerns by trying to convince those who own a viable racetrack and those who control operational funding to support continuation of thoroughbred racing.

Mr. Lagorio stated: "It should also be noted that while we meet here today there is an active and pending legal protest as to the results of the 2014 HPBA election."

FACT: There is no active legal action pending against the NEHBPA. A protest, seeking arbitration under the NEHBPA bylaws concerning a dispute of the NEHBPA election on September 24, 2014, has just been received.

#### Adel Salim

Mr. Salim stated: "There are many reasons why our local horsemen will not benefit from the three days of racing. Many of them did not leave home and their families behind to go to other states where there are racing and training facilities. Their horses are still in the barn, with no training place to get their horses fit and be able to race in three days. They are starving and broke because of the hardship that was imposed on them by our HBPA. "I say the HBPA president and board, because in my mind, they killed Thoroughbred racing and not Suffolk Downs" "They kept stalling and deceiving all the horsemen instead of finding an alternative to Suffolk to keep racing alive."

FACT: Mr. Salim's statements are dishonest, absurd, vile and totally without foundation.

Robert Scarano:


Mr. Scarano stated: "Why? Because there is a protest going on with the HBPA. It's currently in front of the American Arbitration Association. The allegations are serious: misconduct, self-dealing, an election that has been manipulated by unethical data that has been abused. I'm not going to go into the HBPA's actions, but I do have the protest letters with me. I'm going to leave them with you and suggest you go through them very quickly because that's who is going to take the money. That's who is going to facilitate the transfer of money to Suffolk Downs, the same people under protest. Serious considerations need to be made."

FACT: There is no active legal action pending against the NEHBPA. A protest, seeking arbitration under the NEHBPA bylaws concerning a dispute of the NEHBPA election on September 24, 2014, has just been received.

The NEHBPA Board of Directors is comprised entirely of horsemen who are facing the same negative consequences, the same feelings and frustrating options that all 900 members of the NEHBPA had imposed upon us by circumstances beyond our control. We raced for years under difficult situations and we are now faced with the most difficult of situations in the 80 years of Thoroughbred racing in Massachusetts.

We urge you to make a favorable decision on the Suffolk Downs live racing application. It is important to us, that a decision is reached promptly. A delay resulting in a favorable decision would be very harmful to the success of the 2015 racing program, while a delay resulting in an unfavorable decision would unnecessarily continue the frustration of uncertainty in the lives of our horsemen and their families.

Sincerely,

  
\_\_\_\_\_  
Anthony Spadea, President

Cc: Gayle Cameron, Commissioner, Massachusetts Gaming Commission  
Rick Day, Executive Director, Massachusetts Gaming Commission  
Alexandra Lightbown, Director of Racing, Massachusetts Gaming Commission

**Massachusetts Gaming Commission**  
101 Federal Street 23<sup>rd</sup> floor  
Boston, Ma. 02110

2015 JUN 18 AM 11:40

MASSACHUSETTS GAMING  
COMMISSION

**Dear Commission Members:**

**Thank you for the opportunity at your June 11, 2015 hearing to present the views of the large number of horsemen actively opposing 3 days of racing at Suffolk Downs (as demonstrated by the 123 letters that have been submitted as well as the large in-person showing of support) to present the merits of a meaningful and substantial commitment to live racing in contrast to the 3-day token meet as proposed by Suffolk Downs and the NEHBPA.**

**We are disappointed with the personal attacks and demeaning tone of, the letter recently submitted to you by the New England Horsemen's Benevolent and Protective Association, Inc. ("NEHBPA") often referring to those in opposition of their 3 days of racing as "dishonest", "absurd" and "vile". We do not believe that an owner, trainer, or other interested stakeholder in this debate is required to have run a racetrack in order to convey an informed opinion or raise a legitimate point. Contrary to the NEHBPA's assertions, it does not have a monopoly on free speech and theirs is not the only opinion that counts. Reasonable people with differing opinions should be able to have civil discussions about viable alternatives of dealing with important issues affecting their livelihoods.**

**At the June 11 hearing, nobody representing Suffolk Downs or the NEHBPA gave any rational explanation as to how a 3-day meet would benefit in any way the horsemen, the breeders or the local vendors. They still have not and cannot logically do so because there are no good reasons – other than that is the only option they are willing to propose. You have only one alternative: agree. Otherwise, you are discarded as an incompetent or bad person or somehow cast as working against the organization. We respectfully disagree: 3 day of racing is not beneficial for the local horsemen.**

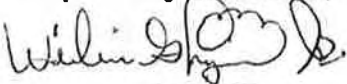
**Suffolk Downs has not earned the right to continue generating simulcasting revenues while refusing to run a genuine race meet. They want the benefits without the commitment. Moreover, allowing them to do so drastically reduces the horsemen's ability to earn a living and weakens our position to attract new investors in Massachusetts racing.**

**In addition, please be assured that at no point have we interfered with any efforts by the NEHBPA to pursue a bond bill. While we do not agree that should be our first or only option, we do not see ourselves on a different "side" on anything that will benefit the horsemen short-term and long-term. This is not about being on different "sides". I hope and expect that we are all trying in good faith to do what is truly best for all the "horsemen" concerned – this year and beyond.**

**Finally, there should be enough mutual respect and consideration to refrain from any further harassing phone calls to those people that have voiced their opposition to the 3**

days of racing seeking to discredit them and their peers unless they agree with the NEHBPA/Suffolk Downs proposal. Everyone should be entitled to his or her own opinion without fear of intimidation or retaliation. In any event, we trust that the Commission will focus on the merits of the competing alternatives and the best interests of the horsemen in rendering its decision. Please contact me with any questions or comments at 617.593.2982 or by email at [williamlagorio@comcast.net](mailto:williamlagorio@comcast.net). Thank you for your consideration.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "William G. Lagorio, Jr.", written in a cursive style.

William G. Lagorio, Jr., On behalf of many of our horsemen (including those that have submitted letters in support of my position to the Commission) in opposition to 3 days of racing at Suffolk Downs .



**From:** Lawrence. [<mailto:lmason2121@aol.com>]

**Sent:** Wednesday, June 17, 2015 12:48 PM

**To:** MGCcomments (MGC)

**Subject:** June 11 hearing

Dear BOARD of Commissioner,

We had no choice to oppose the current plans for a 3 day fair festive because our organization NEHBPA refuses to meet or allow us talk about our concerns as local Horsemen.

This 3 day fair festive was set up for reasons now they Flip Flop and blames Suffolk Downs for not wanting to run a full meet! However, the meet was set up for BOARD members and friends with restricted races and Mass Breds on a BOARD the President of the NEHBPA had influence of and the rest of us are cast away!

No housing on the Grounds of Suffolk Downs and No kitchen for those who ship in shows Suffolk Downs is in no way interested in running a meet. They will leave the Grooms, Hot Walkers and horse care workers. This will leave the trainers wondering if it will be worth the risk or safety to of the horse or help come!

We need a strong message to the NEHBPA and Suffolk Downs about the bad practice!

As a life long Mass resident I can't believe this happen

Larry

Sent from my iPhone

**From:** Lawrence. [mailto:lmason2121@aol.com]

**Sent:** Wednesday, June 17, 2015 10:58 AM

**To:** MGCcomments (MGC)

**Subject:** Re: Massachusetts Gaming Commission announces launch of Voluntary Self-Exclusion Program

Dear BOARD of the Mass Gaming Commission,

Since last week's hearing on June 11, most of the folks who opposed the 3 day fair festive have had many calls saying they will not be allowed at Suffolk Downs and a new race track if one is built from BOARD members of the NEHBPA.

The comments by Lou Raffetto towards a group of local Horsemen who care deeply about the future, family and horses calling them Terrorist and Communist must be addressed at once. In the letter from the NEHBPA no one word of an apology or sorry.

As I stated before they only care about the money before them and steam roll anyone in the way. You folks should dig deeper to see what they will get from Suffolk Downs to put this meet on or how much they will get from the RHDF.

Your dealing with owners of a race track that would not allow the commission to investigate them for a casino but passes as owners of a race track.

I wish the NEHBPA had this much fight to help the struggling horsemen effected by this meet that only favors the Race track and folks that say they represent ALL the Horsemen!

It's comical that Mass Breeds are the focus in this fair festive that the President of the NEHBPA sits on the BOARD of the Mass Breeders as well. And the restricted races favor most of the BOARD members on the NEHBPA. However, not one mention of the hundreds of horses left out of racing because they (Suffolk Downs and the NEHBPA) give us a option to train and follow racing rules with published work outs and a gate carp prior to entering a horse.

They are fighting for the money not the horsemen. Please look into the ownership and partnership rules for two BOARD members have racing Syndicates that violate the rules and left our elections in protest.

Larry

Sent from my iPhone

June 16, 2015

Stephen Crosby, Chairman  
Massachusetts Gaming Commission  
101 Federal Street 23rd Floor  
Boston, MA 02110

Re: Public Hearing held on June 11, 2015.

Dear Chairman Crosby:

We were told that we would get an opportunity to address those questions, put forth by Commissioner Cameron and the other commissioners to Mr. Tuttle, which he was not able to answer. However, that opportunity was never presented to us. While Suffolk Downs may be the licensee, it is the New England HBPA, through the New England Horsemen's Agricultural and Racing Corporation (NEHARC) that will conduct racing operations for the festival. As President of NEHARC and on behalf of the NEHBPA I feel the need to clarify those points in an effort to help the commission make an educated and, hopefully, timely decision. In addition, I wanted to address the points relating to operational matters that were brought up by Mr. Brooker and to also have a chance to rebut the statements that were made by Mr. Lagorio, since they were extremely misleading. Finally, and most importantly, I want to explain the logic behind the three day racing festival, which I believe got lost in the emotions surrounding the public hearing.

As it relates to Commissioner Cameron's initial question relating to the preference to Suffolk Downs horses, provided they meet the eligibility requirements, the response is quite simple. For example, if an allowance race with a purse of \$50,000 states that preference will be given to a horse that has not started for \$10,000 or less, unless that horse finishes 1, 2, 3, or 4 for \$10,000 or more, The Suffolk Downs horse would be preferred provided it fits those requirements. If there happens to be ten local entries, then all of them would have an opportunity, thereby eliminating any outsiders. This is especially important in the claiming turf races. This assures a fairer, more competitive event and eliminates the chance of a cheaper horse running in a much tougher race, which could lead to that animal breaking down by overextending itself.

The question regarding how much money was going to Massachusetts horsemen was raised. Approximately 40%, or \$200,000, is guaranteed to be distributed to them from each racing day, with the potential for much more.

Relating to the matter of housing and feeding those individuals that work on the backstretch on those days, the NEHBPA will provide whatever living accommodations will be necessary, whether it be for a groom that wants to remain with his horse at the track or stay elsewhere. We will offer free meals for all grooms and hot walkers via a food truck and on-track barbecues.

Finally, one of the commissioners asked if there were any models for such an event. The answer is yes. Kentucky Downs has had great success with such a concept and will once again do so this fall when they offer \$7.5M in purses during a five day meet. Please see the attached link for more detailed information. <http://www.paulickreport.com/news/the-biz/kentucky-downs-to-offer-record-purses-at-2015-meet/> Feel free to contact a person by the name of Corey Johnsen at (469) 964-0778 for any questions you may have regarding the Kentucky Downs meet. He is one of the owners and the President of the association that conducts racing there.

Moving on to Mr. Brooker's comments regarding officials, let me say that he is simply not aware of the preparations that have been going on. Essentially all of the officials that worked at Suffolk Downs in 2014 will be returning. Acting Director Lightbown is aware of whom they were and I have had a brief conversation regarding them. In the event one or two cannot be available, we have qualified individuals to take the spots. The same starter has been retained for all three days and he has already lined up six assistants and, in the event he can't get the remaining ones from 2014, we have commitments from two assistant starters from the New York crew and two from Maryland. Likewise, the bulk of the valets from prior seasons are looking to return. So, once again, Mr. Brooker's comments, while a potential legitimate concern, bear no credibility in this case.

Turning to the comments and assumptions made by Mr. Lagorio, let me start by stating that I am confused. While he allegedly "represented" 123 individuals who forwarded letters to the commission, I am perplexed by the message he sent. While most people were advocating for a 50 day meet (a matter that we will discuss later in this letter), Mr. Lagorio was asking that all the money in the fund be escrowed for next year while conducting no racing this year, thereby shutting Suffolk Downs down and putting all the current employees out of work and on the unemployment line, while eliminating the additional jobs that we would be creating. Needless to say, it was very much a mixed message.

This being said, let me move on to some of the statements Mr. Lagorio made regarding the potential for future suitors for the racing license and to some of the comparisons he made to other jurisdictions. While Mr. Lagorio is a part-time trainer, having plowed snow all winter, he presents himself as an expert when it comes to thoroughbred racing. Let's look at some of his statements relating to groups or individuals that could be potential investors in thoroughbred racing in Massachusetts. Let me start with

his number one suggestion, Frank Stronach. The soon-to-be 83 year old has not purchased a racetrack in over 12 years, that being the Maryland Jockey Club in November of 2002. As a frame of reference, I worked for Mr. Stronach as the President of the Maryland Jockey Club for five years. During the last decade or so, he has sold off more than a half dozen tracks. Mr. Stronach may always be looking to acquire more dates for his current properties, but has no interest in expanding to Massachusetts. I can assure you of that fact. George Carney was also mentioned by Mr. Lagorio. This is the same George Carney that just had legislation passed that took \$300,000 annually from the thoroughbred horsemen and has, to date, refused to pay over \$200,000 in premium fees he owes from 2014. The question we have, beyond why the commission has done nothing to make Mr. Carney pay this legislated amount while allowing him to continue to simulcast, is just from where Mr. Lagorio thinks he is going to get the money to subsidize Mr. Carney to fix up his facility and to build more stalls? It's certainly not coming from the Race Horse Development Fund.

Turning to the issue of the racing states such as Michigan and Ohio, of which not only Mr. Lagorio, but Mr. Salim spoke, I can tell you the following. In Michigan, the racetrack Great Lakes Downs, to which Mr. Salim so proudly referred, was a 5/8ths mile oval purchased by Frank Stronach's Magna International Corporation in 2000. It closed its doors in 2007 after years of financial losses. It was followed in 2008 by Pinnacle Race Course, which was also a financial disaster and closed two years later in 2010. In fact, seven Michigan horse tracks have closed since 1998. Hazel Park currently runs thoroughbreds two days a week for 20 weeks for average purses of \$70,000 a day. They are losing money, may be cutting purses, and are on the verge of closing. So, we don't believe it's a very good model state. Ohio, to which Mr. Lagorio so glowingly refers, has two new tracks that are also racinos and yet they still only race for about \$70,000 per day. Without having slots on their respective properties, they would not exist, nor would Thistledown, which has 1,300 video lottery terminals. So, to refer to them as a comparison makes no sense.

Furthermore, Mr. Stronach's Maryland Jockey Club would have lost \$1.3 M last year without a \$10M subsidy from the horsemen. Monmouth Park, one of the prettiest tracks in the country, has been losing money and has stayed afloat using purse money and a loan from the state of New Jersey. The New York Racing Association has been in the red for years and is reporting better numbers because of the casino at Aqueduct, in addition to some creative accounting. Delaware and Charles Town would no longer even exist without their casinos, and racing in Virginia is a whole other story that could mirror Suffolk Downs, should the commission not grant the Suffolk Downs application for race days.

As it relates to the "lucrative simulcast signal" to which Mr. Lagorio alludes and concludes that "an investor is going to say 'that's a strong signal'...They would die for that signal, to bring it in, to send it out, both sides." All I can candidly say is that, after forty years in the business as an official and racetrack operator who has not only dealt with simulcasting since its inception but has also started two Advance

Deposit Wagering systems, he has no idea of what he is talking about. Like everything else that he was allowed to pontificate about, Mr. Lagorio offered many opinions and no facts. THAT is a fact.

Finally, let me get to the real issue at hand. There is not sufficient money to lease a facility for an extended race meet and no viable track other than Suffolk Downs. Initially, we had hoped that revenue would be available from the Race Horse Development Fund to lease Suffolk. Subsequently, we learned that the leadership of the legislature had no intention of opening up the gaming legislation, thereby removing any possibility of freeing up enough money to not only fund purses, but to lease the track. This is the misconception that exists in the public domain largely because of Mr. Lagorio who has misled his constituents by misrepresenting the truth, saying that the NEHBPA was going to subsidize Suffolk Downs and its future development with RHDF money. Nothing could be farther from the truth, which is the case with most of his statements. It is for the aforementioned reason that the NEHBPA has agreed to support Suffolk in its quest for a three-day summer racing festival. It helps to keep the thoroughbred industry relevant, while escrowing funds and showcasing racing in a manner that would be beneficial in the horsemen's efforts to develop a facility in the future. By requesting only \$1.75M from the RHDF, we anticipate that, with additional revenue of \$4M that I believe will be generated for purses by the Plainridge racino during the second half of 2015, there will be approximately \$7.5M that can be put into escrow. This money will be needed to help develop a racing program of which Massachusetts can be proud in the future.

I would like to add one final comment/fact during this reality check. If, in the event by some chance that money would have been available this year to lease Suffolk Downs, a fifty day meet would have been impossible anyway, as would have a thirty day season. As shown on the paperwork that I gave to Acting Director Lightbown, the number of horses belonging to trainers that normally race at Suffolk Downs totaled 335 and some of the trainers that are not stabled at racetracks probably don't even have those estimated numbers. Even if I am wrong by a margin of 20% and the figure is 400, there would still not be enough to conduct an extended meet because 50 of those horses would never hit the entry box, leaving the racing secretary with 350 to fill his races. It just can't happen. Last season, racing was conducted three days a week with 640-650 horses stabled on the grounds. If a proponent of a thirty day season suggests that the meet could be two days a week, I can assure you that you can cut the numbers that I have presented in half, because no trainer can afford to return for a season that consists of racing only two days a week, unless the individual doesn't really train horses for a living, which applies to many of the dissidents.

I apologize for such a long response but I honestly feel that neither NEHARC nor the NEHBPA were given ample time at the hearing to answer questions, to state our case, or to offer a rebuttal to the many statements that had no basis of fact. I would be happy to answer any questions that any members of the commission may have regarding the Suffolk Downs application. I would make myself available to meet in

person, or otherwise I can be contacted via e-mail or on my mobile number, which is 443-829-7655.  
Thank you for taking the time to read my lengthy letter.

Respectfully,

A handwritten signature in black ink, appearing to read "Lou Raffetto, Jr.", with a long horizontal flourish extending to the right.

Lou Raffetto, Jr.

President – NEHARC

Cc: Gayle Cameron, Commissioner, Massachusetts Gaming Commission  
Rick Day, Executive Director, Massachusetts Gaming Commission  
Alexandra Lightbown, Director of Racing, Massachusetts Gaming Commission

**From:** tradewinds009@gmail.com [mailto:tradewinds009@gmail.com]  
**Sent:** Friday, June 12, 2015 11:21 AM  
**To:** MGCcomments (MGC)  
**Subject:**

Dear Commissioners,

I attended the hearing yesterday and would like to thank you for conducting a fair insightful meeting which lacked bias for anything but facts.

I have worked for over forty years at Suffolk Downs both in the field as an owner trainer agent and various other jobs and as a licensed racing official working for the administration for the past twenty. In that time the track began a downward spiral with the threat of closing hanging over the backside business' heads. In desperation and good faith horsemen have settled for inferior management decisions and the trickle down effect of them all the while with the intention and sacrifice of keeping racing alive.

I must declare myself as being on the side of the horsemen especially in this situation which has all the airs of a carpet bagger position. Sensationalism is not going to solve anything, the only thing that is going to happen is a chance for someone particularly outside sources to grab some fast speculative money.

Of some of the commissioner's refreshingly insightful questions; it was asked if the management felt that this influx of money would go to Mass based participants and they answered yes .

I could not believe with all the proclaimed knowledge they had they could answer yes. First of all the preferences for allowing the Ma trainers and owners an edge other than just allowing them to race is preposterous . You would have to limit the competition so harshly you would have little or no attraction to the average bettor. Second to open racing of that nature up to promote generating enough participation you would have to put up a substantial pot. That will attract outside horses and in retrospect look at our stock unraced and untrained horses needing a few races to come to optimum condition and then possibly a lower national value ( even at claiming prices) project as inferior competition to the caliber horses that will come for easy pickings.

It would be terribly one sided and would be instrumental for the people putting on the races to dissolve preferences out of realistic necessity to provide terms of fulfillment of producing a racing card. It is not going to do the existing and remaining Mass horsemen any good. It may produce fan interest because picking winners may be like shooting fish in a barrel However it will do nothing new as far as impetus to interest new ownership.

Another question which was not as critical was housing for help- and for years before dorms and even after tack rooms at the end of barns served as housing and people provided their own portable carts ,etc.

I have no idea why that was not offered as a small solution/ perhaps insurance reasons?



In any case the horsemen seem to be the least likely to benefit by this sensationalized carnival type idea, it is almost as absurd as a local guy trying to open a casino because he had a good card game at his house over the weekend.

I thought the horsemen were sincere and made some good and valid points for their case. I was very surprised at what seemed like a lack of preparation by management from track and HBPA sources.

It actually made me wonder how much constructive work they put into plans for future racing. On of their proposals when questioned about their research was a reference To the Frank Stronach plan back when Mr. Stronach was interested in purchasing the business of Suffolk Downs and moving it to a piece of land abutting what is now Plainridge. His vision was accessibility for travelers ( at one time the CT contingent filled 1/2 of the RI racetrack parking lots for starters) Totalisators already passed because of Plainridge and the infrastructure provided from the Patriot organization.

It seemed to have rationale but Suffolk Downs reneged on the sale at the glimmer of hope for machines.

In retrospect the horsemen are crying for leadership from a source of vision and integrity.

This last stand is desperate as it has morphed into an overwhelming unsolvable problem because of a lack of an owner/investor with that ever important ingredient of money.

Gambling itself has too much competition and it would take a renaissance of the Sport of Kings to bring it back to a competitive level by restoring it to sport status as a priority with gambling taking its place behind quality competition.

Thank You Again  
Anthony L. Gaudiana

**From:** MGC Website [<mailto:website@massgaming.com>]

**Sent:** Friday, June 12, 2015 10:44 PM

**To:** MGCcomments (MGC)

**Subject:** Contact the Commissioner Form Submission

**Name**

paddy reardon

**Email**

[bodababie@yahoo.com](mailto:bodababie@yahoo.com)

**Phone**

(781)336-3475

**Subject**

horse racing

**Questions or Comments**

Thank you so much for the time you spent talking to me after the June 11th meeting . I know the only way will save our farms is to find a place to have two or three months of racing . Suffolk needs to offer full racing or give up simulcast There has to be a place to race this year or next or our breeding program will be gone and so will the farms, thank you again Paddy Reardon Revere Ma

# MASSACHUSETTS HORSEMEN SEEKING SOLUTIONS

## The Majority Of Massachusetts Horsemen Actively Pursuing The Preservation of Thoroughbred Racing In The Commonwealth

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Willam G. Lagorio      [Williamlagorio@comcast.net](mailto:Williamlagorio@comcast.net) 617-593-2982

The list includes a large number of horse owners, The Commonwealths largest Farm Owners and breeders, the majority of local trainers, blacksmiths, Vets, and supporting vendors Seeking Logical Solutions.

Ned Allard- 215-837-7058 157 Thunder Circle Bensalem, Pa. 19021

Ra mon Aguayo - 352-266-4707 11777 NW 7<sup>th</sup> Place Ocala, Florida 34482

Phillip Abbott- 603-434-0083 38 Perkins Road Londonderry, NH. 03053

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Michael Alonardo- 978-436-0555 52 Houghton Road Wilmington, Ma.01887

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Michael L. Cook- 10 Central Street Rowley, Ma. 01969  
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Miranda Downing – 603-490-6053 500 Beacon Street Chestnut Hill, Ma. 02467

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Arthur Duffy Sr. 617-805-8134 679 Winthrop Ave. Revere, Ma. 02151

Wayne Duffy – 617-605-8134 81 Bradstreet Ave. Revere, Ma. 02151

Joseph Duffy – 617- 605- 8134 679 Winthrop Ave. Revere, Ma. 02151

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David C. George- 603-880-6691 36 Perley Street Methuen, Ma.01844

Anthony Gigante- 11 Mozart Ave. Boston, Ma. 02130

Corinne Gilardo- 401-952-5774 79 Monticello St. Providence, RI. 02904

Mitch Goldberg-781-233-2016 4 Upland Road Saugus, Ma. 01906

Robert Gorham-781-828-3791 Or 617-212-3349 5 Fox Hollow Drive Canton, Ma.

Michael Gorham 781-828-3791 6 Old Coach Road Canton, Ma. 02021

Paul Graf- 617-774-7742 20 south Cambridge Street Revere, Ma. 02151

Joseph Grant – 617-472-5656 136 Gardiner Road Quincy, Ma. 02169

Mary Grant - 617-472-5656 136 Gardiner Road Quincy, Ma. 02169

Judith A. Golditch – 617-803-2192 10 Bay View Drive Swampscott, Ma. 01907



James Greene 158 North Street Methuen, Ma. 01844

John Grossi-978-479-4833 435 Main Street Amesbury, Ma. 01913

Carlos Grullon - 978-943-2184 75 Lexington Street Lawrence, Ma. 01841

Josephine Gump - 264 Bishops Forest Drive Waltham, Ma. 02452

Dorothy Gunther 194 Island Pond Road Derry, NH. 03038

Larry Hall- 352-840-3080 11785 SW 121<sup>st</sup> Ave. Dunnellon, FL. 34432

Stephen Hamilton – 617-669-8495 109 Walnut Street #4 Somerville, Ma. 02145

Alison Hassig - 860-671-975

Stephen Hassig – 860-671-9754

Miles Heinen- PO Box 343 Chester, West Virginia 26034

Kathy Ann Hicks - 4 Walnut Street Middleboro, Ma. 02346

Lance Hie – 440 North Ave. Haverhill, Ma. 01841

Harry R. Hoglander- 5 A Curlew Ct. Gloucester, Ma. 01930

Roland Hopkins – 2 Seacliff Drive. Plymouth, Ma.02360

Susan Hollis-352-226-6975 730 NE 145<sup>th</sup> Ave. Williston, Florida 32696

Theresa Horky – 508-570-4908 48 Myrtle Street Norfolk, Ma. 02056

**Dr. Richard Hymoff- 781-962-5779 805 Merrimack Ave. Dracut, Ma. 01826**

Kathleen Hymoff- 781-962-5779 805 Merrimack Ave. Dracut, Ma. 01826

Justo Jimenez- 69 Lexington Street Apt. 3 Lawrence, Ma. 01841

Justo Jimenez Jr. 69 Lexington Street apt. 3 Lawrence, Ma. 01841

Patrick Donal Keane 11 Cushman Road Brighton, Ma. 02135

John Kearns - 57 R Cherry Street Somerville, Ma. 02145

Timothy Kirby – 781-366-4962 57 Hartford Street Dover, Ma. 02030

Jonathan Kirby- 4 Castle Road Medway, Ma. 02053

John Kirby – 781-366-4962 57 Hartford Street Dover, Ma. 02030

James Kight- 297 Crossway road Tallahassee, Florida 32305

Lowell Kinch - 35 West Barn Road North Attleboro, Ma. 02703

Steven Klesaris - 314 Belmont Court Lincoln University, Pa. 19352

Mary Koch - 5 Turnburry Hill Road Lexington, Ma. 02421

Melanie Kovalski- 781-856-2463 201 Webster Street #4 Rockland, Ma. 02370

Joyce Kielty –352-237-3594 6655 SW 73<sup>rd</sup> Street Ocala, Florida 34476

Brian Kielty- 352-237-3594 6655 SW 73<sup>rd</sup> Street Ocala, Florida 34476

Robert Kynch- 401-663-1684 10 Ballou Street Pawtucket, RI. 02860

Donna Kutt – 603-275-0923 31 Mill Road Derry, NH. 03038

Robert Kuzmins –860 Churchill Street Pittsfield, Ma. 01201

Kathy Lacombe – 603-475-2650 281 Taunton Street Norton, Ma. 02766

William Lagorio – 617-593-2982 36 Witherbee Ave. Revere, Ma. 02151

Carol Letarte- 10 Oak Ave Peabody, Ma. 01960

James Letarte- 10 Oak Ave. Peabody, Ma. 01960

Elizabeth Lezell – 781-956-0432 30 Pratt Place Revere, Ma. 02151

Lee Lobelenz- 236 Dedham Street Dover, Ma. 02030

Alan Lockhart – 508-415-9022 PO Box 302 Somerset, Ma. 02726

Lloyd Lockhart – 508-415-9022 52 Lincoln Ave. Somerset, Ma. 02726

Lori Lockhart- 244 Cedar Ave. Swansea, Ma. 02777

Jill Lorenz -603-680-1120 14 Jackson Street Hillsboro, NH. 03244

Padarath Lutchman 12733 Jacob Grace Ct. Windemere, FL. 34786

Art Lyman Jr. 96 Elm Street Hatfield, Ma. 01038

Bruce MacDonald -617-797-1784 15 Elizabeth Road Billerica, Ma. 01821

Lauren MacFarlane- 193 Emerald Street Malden, Ma. 02148

James Macfarlane Jr. 193 Emerald Street Malden, Ma. 02148

Kathleen Manning-508-858-9868 217 Crescent Street West Bridgewater, Ma.

Robert Manning – 508-858-9868 217 Crescent St. West Bridgewater, Ma. 02379

James Marble- 857-615-8494 or 352-201-8877 3372 Stroud Tr.Inverness,FL.

Dianne Manocchia- 603-834-0113 145 Emerald Acres Barrington, NH. 03825

Joseph Manocchia- 603-834-0113 145 emerald Acres Barrington, NH. 03825

Wayne Marcoux – 617-513-0665 1 Revere Beach Blvd.Apt.7 Revere, Ma. 02151

Robert MacIntosh- 603-969-2221

John Minchello- 978-407-3049 84 West Neptune Rd. Lynn, Ma. 01905

Brian Minsk – 508-282-2656 36 Miscoe Road Mendon, Ma. 01756

Cathy Mordenti- 318-578-0740

Christine Mederois- 617-913-2645 147 Bluff Ave. Cranston, RI. 02905

George Maroun – 603-370-2862 6 Old Coach Road Salem, NH. 03079

Maureen Maroun – 603-370-7285 12 Thomas Road Methuen, Ma. 01844

Douglas Maroun – 603-370-2862 36 Sylvan Drive Salem, NH. 01844

Jane Martin – 508-284-7711 1 Noahs Hill Way Essex, Ma. 01929

James Greene – 978-314-7391 158 North Street Methuen, Ma. 01844

Larry Mason – 781-799-3783 428 Washington Street N. Pembroke, Ma. 02359

Rita Mason – 781-799-3783 100 Ravenswood Rd. Waltham, Ma. 02453

David Mason – 781-7993783 11-25 Strawberry Bank Rd. Nashua, NH. 03062

Patrick McCarthy- 781-383-1691 127 Pleasant Street Cohasset, Ma. 02025

Benda McCarthy – 978-807-4083 23 Carroll St. Chelsea, Ma. 02150

Terri McCarthy- 978-807-4083 46 Fellows Rd. Ipswich, Ma. 01938

Andrew McGrath –978-535-0594 8 Temmi Road Peabody, Ma.01960

Sherryl Meade – 857-266-2226 55 Revere Beach Blvd. Revere, Ma. 02151

Patricia Meadow – 781-828-1589 48 Elm Street Canton, Ma. 02021

Chris Melvin – 352-351-5730 97 Depot Road Boxford, Ma. 01921

Michael Meese – 216-386-7298 37138 Goldenrod Ct. Dade City, FL. 33525

Phillip Messina – 781-324-8949 577 Highland Ave, Malden, Ma. 02148

Joseph Mineri 781-854-2960 54 Hurlcliff Ave. Medford, Ma. 02155

Stephen Munafo- 781-953-0755 20 Greenhalge Ave. Everett, Ma. 02149

John Nassi- 401-723-4831 51 Arthur Ave. N. Providence, RI. 02904

Ricky Norris- 781-244-3240 48 Francis Street Revere, Ma. 02151

Kevin Nichols - 107 Great Woods Rd. Saugus, Ma. 01906

Krystine O’Conner- 781-330-1232 51 Streeter Road Fiskdale, Ma. 01581

Pearl Chain – 857-417-3038 120 Gladstone Street East Boston, Ma. 02128

Michelle Nydam Thompson – 774-239-2419 116 Oakham Rd. Brookfield, Ma.

Thomas O’Hearn- 431 Route 6A Yarmouthport, RI. 02675

Frank Parrinello- 25 Eutaw Street East Boston, Ma. 02128

Ambrose Pascucci-603-205-3239 39 Hillside Ave. Revere, Ma. 02151

Ney Passanha – 973-573-5991 3131 Knight Rd. Bensalem, Pa. 19020

Nilo Passanha – 973-573-5991 199 Ferry Street Newark, NJ. 07105

Robert Paterno- Old Village Way Oldsmar, Florida 34677

Dr. Lenny Patrick- 609-217-8542 Nahant, Ma.

Mathew Peebles- 4520 NE 145 3<sup>rd</sup> Ave, Silver Springs, FL. 34488

Pedro Perez- 978-448-6008

Robert Pergakis- 508-561-7661 15 Belnap Road Norwood, Ma. 02062

Diana Pfister -502-417-7223 12511 Glenna Ave. Tampa, FL. 33635

John Pimental -508-221-9051 10 Dailey Street Attleboro, Ma. 02703

James Politano-508-543-8848 3 Pickering Circle Foxboro, Ma. 02035

Pedro Posadas - 617-913-2645 30 Thornton Street Revere, Ma. 02151

Kenneth Posco- 978-834-3344 14 Oliver Street Fitchburg, Ma. 01420

Ronald Potts – 254-396-9173 38730 Mickler Road Dade City, FL. 33523

Ernie Poxon – 357-247-8865

Silberio Ramirez- 184 Northampton Street Boston, Ma. 02118

Robert Raymond – 401-255-9642 25 Lamoureux Blvd. N. Smithfield, RI.

Kathy Raymond- 401-255-9642 25 Lamoureux Blvd. N.Smithfield, RI. 02895

M.C. Reardon– 732-915-5629 15 Standish Rd. Revere, Ma. 02151

Pattie Reardon – 781-336-3475 15 Standish Road Revere, Ma. 02151

Michael Reilly - 584 Webster Ave. Rockland, Ma. 02370

Archie Ricciardi- 617-347-1689 28 Bunker Hill Lane Quincy, Ma. 02169

Lisa Reagan- 401-365-7699 102 Cumberland Ave. S. Attleboro, Ma. 02703

John Rigattieri -978-815-3851 25 Saltonstall Rd. Haverhill, Ma. 01830

Gregory Rivera – 787-513-8557 62 Falcon Street East Boston, Ma. 02128

Tito Rivera – 978-397-6048 10 b Loren Road Salem, NH. 03079

Ozzie Rivera –401-617-1657 19 South Street Pawtucket, RI. 02860

Archie Royster- 401-447-6563 145 Lancaster Ave. Providence, RI. 02906

Kevin Ruane- 45 Farewell Ave. Hyde Park, Ma. 021236

Joseph Rocasha- 413-549-6111

Anthony Ryan – 508-341-3742 25 Oakhurst Rd. East Douglas, Ma. 01516

Pattie Ryan -508-320-4459 25 Oakhurst Rd. East Douglas, Ma. 01516

Timothy Ryan – 774-545-0772 20 Oakhurst Rd. Sutton, Ma. 01590

Adel Salim – 508-369-1578 287 S. Worcester Street Norton, Ma. 02766

Jason Salim- 508-801-9413 287 S. Worcester Street Norton, Ma. 02766

Magthilda Salim -508-369-1578 287 S. Worcester Street Norton, Ma. 02766

Tim Salisbury – 781-706-6454 143 Elm Street Pembroke, Ma. 02359

James Sanford – 781-858-8572 16 Pratt Place Revere, Ma. 02151

Keith Sargent – 352-512-2995 PO Box 556 Orange Springs FL. 32113

Wayne Sargent Jr. 352-426-5388 1688 NE 162 Street Citra, FL. 32113

Wayne Sargent Sr. 352-426-5388 1688 NE 162 Street Citra, FL. 32113

Mark Savastano – 857-417-7883 or 727-656-1769 51 Woodland Rd. Revere, Ma.

Terri Scheidel - 860-416-1200 89 Wildwood Rd. Tolland, CT. 06084

Chris Schultz- 401-230-6655

Linda Scocca- 352-277-1929 17633 Gunn Hwy.#142 Odessa, FL. 33556

Roger Shelton – 978-764-6479

Janet Seifert -617-285-4118 2 Harris Street #27 Revere, Ma. 02151

Jose Serano – 352-426-2604 4620 NW 46<sup>th</sup> Ave. Ocala, FL. 34482

Michael Sherr – 518-956-2587 902 County Rt. 402 Westerlo, NY. 12193

Jennifer Shipton- 857-615-8494 963 Baron Dr. Fort Erie Ontario, Canada L2A 6G9

Richard shelansky – 860-716-1821 500 E. Hartland Road Barkhamsted, CT.06083

Donna Schneider- 254-396-9173 38730 Mickler Rd. Dade City, FL. 33523

John Sou-617-770-2267 27 Lunt Street North Quincy, Ma. 02175

Gerald Souto - 50 Walnut Ave. Revere, Ma. 02151

Florence Gemma Siravo – 401-741-7717 66 Burlingame Rd. Cranston, RI. 02921

Carol Skawinski – 814-572-9829

William Spathanas – 781-492-5978 121 Weymouth St. Holbrook, Ma. 02343

Edward Stone – 781-245-5733 37 Morrison Road Wakefield, Ma. 01880

Joseph Signore Jr. 401-490-4444 4 Cohasset Lane Cranston, RI. 02921

Joseph Signore Sr.401-640-4412 4 Cohasset Lane Cranston, RI. 02921

Vincent Spathanas –781-492-5978 93 Academy Ave. Weymouth, Ma. 02189

James Stewart III - 16 Shore Drive Salem, Ma. 01970

Jonathan Stodghill - 2376 NW 117<sup>th</sup> Ct. Ocala, Florida 34482

Elena Storlazzi – 603-203-1209 197 Chester Street Chester, NH. 03036

Jody Swindle – 781-521-9425 144 Atlantic Ave. Revere, Ma. 02151

Joseph Tallarine – 727-858-7555 1414 Dahill Road Brooklyn. NY. 11204

Albert Tassone 978-663-0785 or 508-864-3533 216 Rangeway Rd. #171  
Billerica, Ma. 01862

Louie Tasso- 781-842-2888 188 Judge Road Lynn, Ma. 01904

Mark Tasso- 781-244-9884 Finger Lakes, NY.

Michelle Tasso-781-244-9884 Finger Lakes, NY.

Aaron Taylor- 352-484-3422 100 N. 23<sup>rd</sup> Ave. Ocala, Florida 34475

Roy Taylor Jr. – 401-949-3484 1 Steere Road Greenville, RI. 02828

Debbie Thomas – 352-226-6975 730 NE 145 Ave. Williston, Florida 32696

Cindy Thorpe – 857-272-5123 79 Quinn Road Lynn, Ma. 01904

Terri Tierney- 978-836-2699

John Tingos-413-813-5456 7000 Peony Place Lakeworth, Florida 33467

Lou Tisbert- 508-451-5915 138 Greenwood Road Andover, Ma. 01810

Ricky Tucker- 603-770-7960

Anthony J. Trimarchi- 57 Glen Road Wilmington, Ma. 01887

Robert Van Worp- 727-480-0366 3465 NE 92<sup>nd</sup> Place Anthony, Florida 32617

Pat Vassallo- 413-813-5456 119 Federal Street Belchertown, Ma. 01007

Pat Vassallo Jr. – 413-563-344 119 Federal Street Belchertown, Ma. 01007

Joaquin Villeneuve- 617-820-7665 83 Florence Ave. Revere, Ma. 02151

John Vinson – 352-274-1229 6500 W. Highway # 338 Ocala, FL. 34482

Elaine Vinson – 352-274-1229 6500 W.Highway # 338 Ocala, FL. 34482

Richard Waldeck- 401-828-7714



Peter Wasel -978-855-1954      88 New Westtownsend Rd. Lunenburg, Ma.  
01462

Charles Wasel 978-855-1954      58 Elm Street Clinton, Ma. 01510

Barry Wong-617-426-0247      73-79 Essex Street Boston, Ma. 02111

Ralph Whitney – 781-974-7672      501 Auburn St. # 205 Whitman, Ma. 02382

Ariane Wilson – 216-299-8712

Jack Wolfseeder -518-879-1465      1053 Raymond Road Ballston Spa, NY. 12020

Timothy Yee-      8 Ninth St. # 204 Medford, Ma. 02155

2015 JUL -1 PM 1:56

Attention Gaming Commission my name is Steve Cummings. I am fifty seven year old resident, current business owner of two local businesses in the East Boston and Revere area. Over the last five years five years, thousands of cars pass threw our city, and have to look at the decaying Wonderland (see pictures)

1. A teller named Mary O'Brien used to have a job at that window.
2. Current picture of what looks like a lake in a decaying parking lot.
3. 100,000 used to pass threw these gates ( now look at the new condition)
4. Last picture is of a club house thousands of patrons passed threw.

The nine following pages are all Residents or Business owners of our area who agree to that. Three days of racing is better than none.

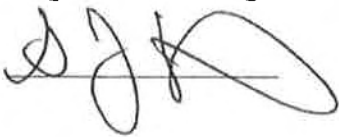
1. One more costumer (per business) is very helpful.
2. We don't need two decaying boarded up parcels of land.
3. Give us as a community a chance to survive.

The Business listed below are just a few of the ones I personally talked to that can use all the help three days would do.

1. Joe's Market and Mobil, Squire Rd. Revere (Joe)
2. Barn Car Wash, two locations, Squire Rd . Revere ( Joe Cappola)
3. John Gas and Auto, Revere ( John)
4. Mama Mia Bakery, East Boston ( Mr. Esposito)
5. Kelly's Roast Beef (famous) Along with many others as you can read on the list.

Please consider three days, we do not need another boarded up huge parcel of land as thousands pass threw our city. Also that all of us have fond memories of. Suffolk Downs has always looked out for our neighbors. All though we don't always agree with management, they always had a open door policy for our residents. I have spoke with hundreds of people in the last four months, most all agree to three days of top grade horses coming to our city. Just my feelings thank you, have a nice fourth of July.

Stephen Cummings

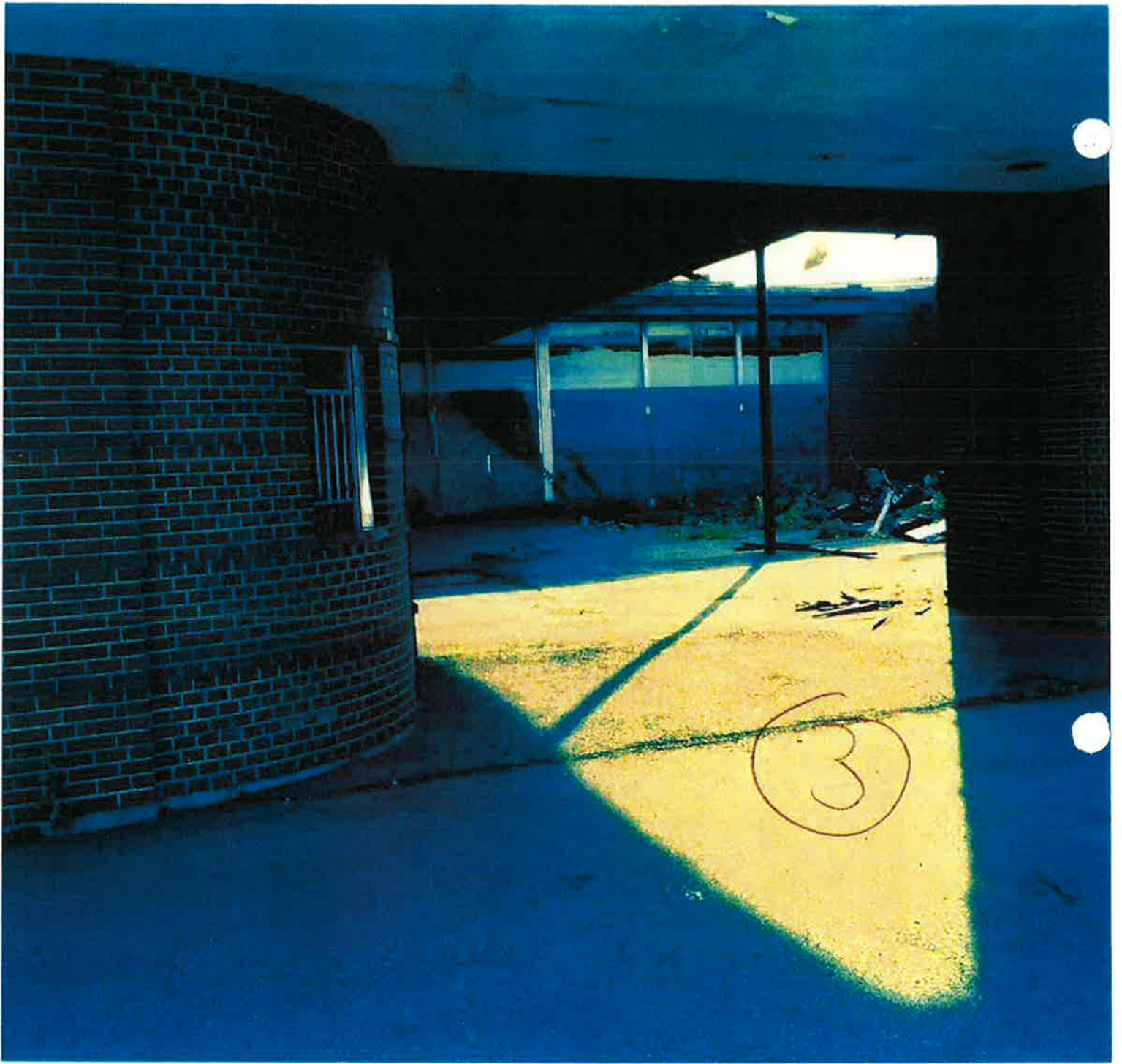


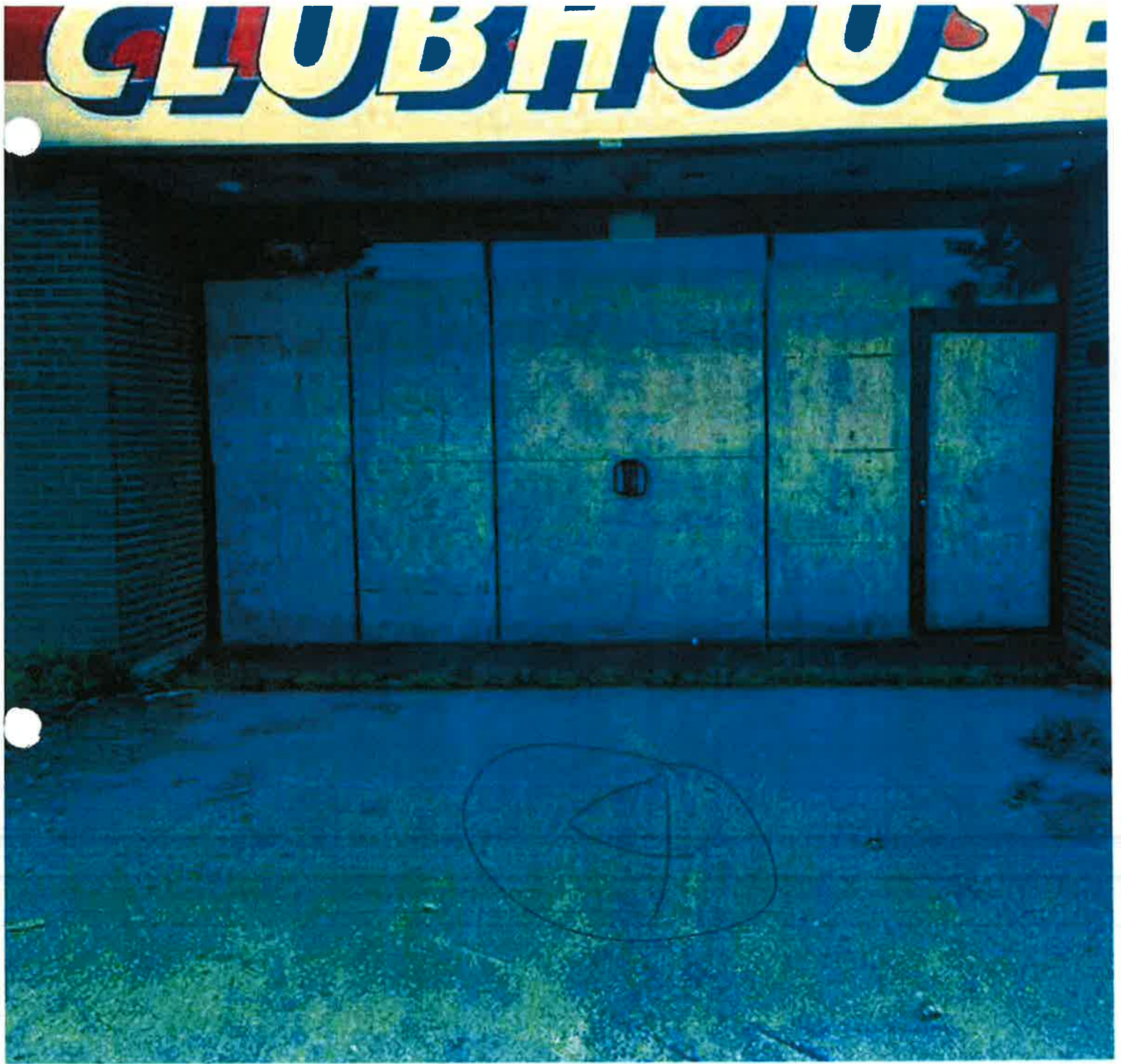
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# Petition for Certain Additional Live Racing Dates for Benefit of Revere/East Boston Communities

**Stephen Cummings, 211 Bennington Street, East Boston, and the undersigned named parties who either reside or have businesses in the above-named communities hereby seek to petition the Massachusetts Gaming Commission (Commission) as to allowing live horse racing during the daytime at Suffolk Downs Raceway for three dates in the months of July and August, 2015 (not necessarily consecutive dates) in which a certain portion of the proceeds would benefit the communities in question in terms of increased business revenue and for the general enjoyment of the immediate communities. We the undersigned said urge the Commission to consider permitting said live racing for the requested time period.**

Date	Signature	Printed Name	Address	Phone number/email
June 22, 2015	Ronald Rosen	Ronald Rosen	44 Lenox Ave	1-781-286-5066
JUNE 22, 2015	James W. Diaz	JAMES W DIAZ	257 RESERVOIR AVE	781-854-2335
June - 22 - 2015	Maria D. Higi	Maria D. Higi	64 Sigourney St	781-289-918
6/20/15	Tanya Klenk	Tanya Klenk	200 Salem St	781 316 7455
6/22/15	Fina Medeiros	Fina Medeiros	45 Revere Lynn	
6/22/15	Maria D. Higi	Maria D. Higi	29 Malcolm	8572496025
6/22/15	Hayden Park	Hayden	45 Malcolm St	781-521-2513
6/22/15	M. Fusco	M. Fusco	237 Proctor Ave	781-289-5907
6/22/15	T. Tyler	Tom Tyler	28 Prescott St	781-886-2115

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Date	Signature	Printed Name	Address	Phone number/email
6-20-15	Robert G. Beyer	Robert G. Beyer	29 Melba St Revere	508-284-9825 SO WITH BEST OF MEMORIES @ CONNECT-104
6-20-15	Carla Pasquale	Carla Pasquale	100 Patriot Dr REVERE	781-289-8155
6-20-15	Anthony Zambato	Anthony Zambato	87 Higley St REVERE	781-284-5227
6-20-15	Don Perracelli	Don Perracelli	20 Broadway Revere	781-284-9825
6-20-15	John Thayer	John Thayer	76 Stowers St.	781-289-2160
6-20-15	Julio V. Acosta	Julio V. Acosta	104 Fialakoff Ave REVERE	617-552-8642
6/20/15	Paul J. [Signature]	Paul J. [Signature]	12 Forest	957-998-8330
6/20/15	Paul [Signature]	Paul [Signature]	38 Eastern Ave	781-816-7910
6-20-15	Seifu Achebe	SEIFU ACHEBE	45. Mccobay	781-286-6044



# Petition for Certain Additional Live Racing Dates for Benefit of Revere/East Boston Communities

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Date	Signature	Printed Name	Address	Phone number/email
6-21-15	Ralph R LePage	RALPH R LePAGE	25 SALEM ST WAKFIELD	617-548-4281
6-21-15	Daniel Daniels	Daniel Daniels	46 Jarvis St Revere MA	617-781-0570
6-21-15	Joe Della Valle	JOE DELLA PADDY		
6-21-15	Brenda J. Holgersen	Brenda J. Holgersen	Revere	
6-21-15	Jean Fazzari	Jean Fazzari	Revere	
6-21-15	Kenny	KENNY	Revere	781-288-1145
6/22/15	MITUL PATEL	MITUL PATEL	Revere	
7-26-15	Edwanio	EDWANIO	Somerville	
7-26-15	Daniella	Daniella	80 F Street	









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Date	Signature	Printed Name	Address	Phone number/email
6/24/15	<i>John T. Diligro</i>	John T Diligro	88 Ken Ave	781 324 9409
6/24/15	<i>John T Diligro</i>	John T Diligro	73 Arcadia St	781 878-8888
6-24-15	<i>S Smith</i>	<i>S Smith</i>	22 West Park Ave	617-791-4726
6/29/15	<i>Beno Thouron</i>	Beno Thouron	3 Burchsted Ln	781 913 1689
6/30/15	<i>[Signature]</i>			
6/30/15	<i>[Signature]</i>	Joel Gomes Jr	1720 N Shore Rd	791 632 3929
6/30/15	<i>[Signature]</i>	Marcia Mendes		857.615.0518
6/29/15	<i>[Signature]</i>	Jay Cotton	211 Broadway	617-259-1748

# Petition for Certain Additional Live Racing Dates for Benefit of Revere/East Boston Communities

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Date	Signature	Printed Name	Address	Phone number/email
6-24-15		JOHN STEEVES	75 Pearl St Boston MA	617-549-8804
6-24-15		JIM DiMARE	100 MAIN ST STONEHAM	D. MARE Jim@vAkw.com
6-24-15		Tonino Fraturo	44 Falcon St	
6-26-15		Paul Ferraro	20 Bell Road	PHOTO
6-26-15		DAN NUNEZ	8 Andrews Green	daivd.nual@Comstar
6-20-15		Rodney Desrosiers	945 Main St Lynnfield MA	rod@rod.com
6-26-15		Andrew Leveau	15 E/owen St Chelsea MA	(017)-777-4194
6-26-15		Jackie Lomonico	29 Macdonald Revere	857-299-7773 6033



# Petition for Certain Additional Live Racing Dates for Benefit of Revere/East Boston Communities

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Date	Signature	Printed Name	Address	Phone number/email
6/22/15		Taylor Chavez	150 Saint Andrews Middle	781-820-4297
6/22/15		Michael Pantone	20 Marlboro St	781-420-0316
6/26/15		Eddie Smith	90 Heath St	857-334-3007
6/25/15		TONEY GLASGOW	43 ORGILL WAY	617-792-2588
6/26/15		Mark Lote	68 WINTHROP	781-388-2005
6/26/2015		ESTEFANIA LAUER	19 THORNTON ST REVERE MA	617-599-4135
6/29/15		Julio Morales	140 Ashwood St	781-552-9147

# Petition for Certain Additional Live Racing Dates for Benefit of Revere/East Boston Communities

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Date	Signature	Printed Name	Address	Phone number/email
6-20-15		WESLEY CUMMINGS	11 COLEMAN ST REVERE	
6-20-15		JOE DEVEAUX	15 WARD STREET 711 AVE	
6-21-15		Gerald Kelly	51 Chaper St Revere	
6-21-15		Paul Emmons	41 Leverett Ave	
6/21/15		KAREN REED	57 AUGUSTUS ST	
6/21/15		Bill Reed	57 AUGUSTUS ST	
6/21/15		Armin Audic	45 MCCOBB ST	781-985-3069
6/21/15		RAFIK AUC	45 MCCOBB ST	
6/21/15		Sumra Audic	45 MCCOBB ST	

# Petition for Certain Additional Live Racing Dates for Benefit of Revere/East Boston Communities

**Stephen Cummings, 211 Bennington Street, East Boston, and the undersigned named parties** who either reside or have businesses in the above-named communities hereby seek to petition the **Massachusetts Gaming Commission (Commission)** as to allowing **live horse racing during the daytime at Suffolk Downs Raceway for three dates in the months of July and August, 2015** (not necessarily consecutive dates) in which a certain portion of the proceeds would benefit the communities in question in terms of increased business revenue and for the general enjoyment of the immediate communities. We the undersigned said urge the Commission to consider permitting said live racing for the requested time period.

Date	Signature	Printed Name	Address	Phone number/email
6/19/15	<i>Denise Leone</i>	Denise Leone	89 Augustus St.	617 314-2209
6/19/15	<i>Charlie Capone</i>	Charlie Capone	91 Marshall St.	857 251 0530
6/19/15	<i>Jamie Bocchetti</i>	JAMIE BOCCHETTI	110 Kimball Ave	857-258-0940
6/19/15	<i>Joseph DiLuigi</i>	Joseph DiLuigi	64 Sigourney St	781- 521- 2478
6/19/15	<i>Nancy Pardi</i>	Nancy Pardi	35 Everett St	
6-19-15	<i>Robert K. Ne/E.R.</i>	ROBERT K. NE/E.R.	97 Sigourney St	857-991-0038
6-23-15	<i>Joseph Coppola</i>	Joseph Coppola	95 Squire Rd	781 284-2333
5-26-15	<i>Anita Vaccaro</i>	ANITA VACCARO	467 PROCTOR AVE NEVILLE	781-289-4582



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Date	Signature	Printed Name	Address	Phone number/email
6-20-15	J. Dwyer	John Dwyer	115 CONANT ST	781-289-2806
6-20-15	Joseph Priso	Joseph Priso	338 SPURRY RD	781-289-7958
6-20-15	Kenneth Lafont	Kenneth Lafont	16 Naphor Rd	617-257-2358
6-20-15	Odell Tyler	Odell Tyler	110 HANBON ST	781-426-6237
6-20-15	Angel Malone	Angel Malone	85 Walnut Av.	781-502-5030
6-20-15	Harvey Corin	Harvey Corin	35 McCaba St	857-244-3020
6-20-15	Thomas D. Noel	Thomas D. Noel	1980 FORTRESS DR	781-820-4305
6-20-19	Michael R. Regan	MICHAEL RAGAN	29 RUMNEY RD	781-289-9741
6-20-19	Billy J. King	Billy J. King	217 Broadway N	781-288-2145

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## 205 CMR 2.00 General Rules

2.01: Foreword

2.02: Definitions

2.03: Ejection and Exclusions

2.04: Due Process and Hearings

2.05: Licensing Fees

2.06: Licenses, Registration and Fees for Participants in Racing

2.07: Rulings in Other Jurisdictions

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### **2.01: Foreword**

The Massachusetts Gaming Commission, hereinafter called the Commission, was created by an act of the Legislature of the Commonwealth of Massachusetts in the year 2011. M.G.L. c. 23K as inserted by the session laws of 2011, chapter 194, section 16 and amendments states that the Commission shall have full power to prescribe rules, regulations and conditions under which all horse races or horse racing meetings shall be conducted in the Commonwealth.

205 CMR 2.00 applies to all persons or individuals, associations or corporations, which shall hold or conduct any horse racing meeting within the Commonwealth of Massachusetts licensed by the Commission, where horse racing shall be permitted for any stake, purse or reward.

All licensees and participants are charged with knowledge of 205 CMR 2.00. No licensee or other persons shall engage in his or her occupation at any Massachusetts racing facility without first reading 205 CMR 2.00

Should any question arise as to the meaning of any rule or regulation, the Commission or its representatives will be available to provide an explanation.

205 CMR 2.00 is supplemented by the State Administrative Procedure Law found in M.G.L. c. 30A. M.G.L. c. 30A provides the procedures that must be followed by all state agencies on such matters as the amending process and the adjudicatory procedure. Under M.G.L. c. 30A any interested party has the right to attend all hearings conducted by the Commission for the purpose of the adoption or amendment of any rule or regulation. The Commission shall afford any interested person an opportunity to present data, views or arguments in regard to any proposed rule change. Upon written notice to the Commission, a person may request the adoption, amendment or repeal of any regulation with an opportunity to present data, views or arguments in support of such request.



The rules of racing for harness horse racing are contained in 205 CMR 3.00: Harness Horse Racing

The rules of racing for running horse racing are contained in 205 CMR 4.00: Horse Racing

The rules on pari mutuel wagering are located in 205 CMR 6.00: Pari mutuel Rules for Horse Racing, Harness Horse Racing and Greyhound Racing.

## **2.02: Definitions**

Act: is the enabling legislation permitting pari-mutuel racing and wagering in this jurisdiction

Administer or Administration is the introduction of a substance into the body of a horse

Appeal: is a request for the Commission or its designee to investigate, consider and review any decision or rulings of stewards/judges of a meeting

Associated person: is the spouse of an inactive person, or a companion, family member, employer, employee, agent, partnership, partner, corporation, or other entity whose relationship, whether financial or otherwise, with an inactive person would give the appearance that such other person or entity would care for or train a racing animal or perform veterinarian service on a racing animal for the benefit, credit, reputation, or satisfaction of the inactive person.

Association is a person or business entity holding a license from the Commission to conduct racing and/or pari-mutuel wagering

Authorized Agent is a person licensed by the Commission and appointed by a written instrument, signed and acknowledged before a notary public by the owner in whose behalf the agent will act.

Authorized Pari-mutuel Wagering Entity (APmWE) is a licensed racetrack association or a licensed secondary pari-mutuel organization (SPMO).

Association Grounds is all real property utilized by the Association in the conduct of its race meeting, including the racetrack, grandstand, concession stands, offices, barns, stable area, employee housing facilities and parking lots.

Beneficial Interest is profit, benefit or advantage resulting from a contract or the ownership of an estate as distinct from the legal ownership or control. When considered as designation or character of an estate, is such an interest as a devisee, legatee or donee taken solely for his or her own use or benefit and not as holder of title for use and benefit of another.

Calendar Day is 24 hours ending at midnight.

Commission is the regulatory agency with the authority to regulate racing.

Day shall mean a calendar day.

Ejected shall mean the removal from the grounds of an Association and shall apply to both patrons at racing meetings and participants in racing.

Exclusion is the act of an association preventing a person from entering or remaining on the grounds of that association under the jurisdiction of the commission.

Financial Interest is an interest that could result in directly or indirectly receiving a pecuniary gain or sustaining a pecuniary loss as a result of ownership or interest in a horse or business entity; or as a result of salary, gratuity or other compensation or remuneration from any person. The lessee and lessor of a horse have a financial interest.

General Partner shall mean the person or persons having full, exclusive and complete control and discretion of the management of the affairs of a Limited Partnership.

Horse is any equine (including and designated as a mare, filly, stallion, colt, ridgeling or gelding) registered for racing; specifically, an intact male five years of age or older.

Inactive Person is any person whose license has been suspended for more than 30 days; whose license has expired or been revoked; or whose license application has been denied.

Jockey is a professional rider licensed to ride in races.

Licensee is any person or entity holding a license from the Commission to engage in racing or a regulated activity.

Limited Partnership shall mean any person holding an interest in a horse, who is not a general partner.

Meeting is the specified period and dates each year during which an association is authorized to conduct racing by approval of the Commission.

Month is a calendar month.

Multiple Ownership shall mean any ownership of a horse by more than one individual.

Owner is a person who holds any title, right or interest, whole or partial in a horse, including the lessee and lessor of a horse.

Pari-Mutuel System is a manual, electro-mechanical, or computerized system and all software (including the totalisator, account betting system and off-site betting equipment) that is used to record bets and transmit wagering data.

Pari-Mutuel Wagering is a form of wagering on the outcome of an event in which all wagers are pooled and held by an association for distribution of the total amount, less the deductions authorized by law, to holders of tickets on the winning contestants.

Patron is a member of the public present on the grounds of a pari-mutuel association during a meeting.

Permit is an authorization by the Commission to an association to conduct horse racing with pari-mutuel wagering at a specified location.

Person is any individual, partnership, corporation or other association or entity.

Performance is a schedule of contests conducted on the same day as authorized by the Commission.

Prima Facie Evidence is evidence that, until other evidence overcomes its effect, will suffice as proof of fact in issue.

Program is the published listing of all contests and contestants for a specific performance.

Protest is a written objection charging that a horse is ineligible to race, alleging improper entry procedures, or citing an act or an owner, trainer, jockey or official prohibited by rules, which, if true, shall exclude that horse/jockey from racing.

Purse is the total cash amount for which a race is contested.

Race is a contest between horses at a licensed meeting.

Race Day A day during a racing meeting when pari-mutuel wagering is conducted on live racing. In the matter of penalties the word "day" shall mean a "calendar day."

Restricted Area is an enclosed portion of the association grounds to which access is limited to licensees whose occupation or participation requires access and members of the Commission and its staff.

Ruled Off shall mean the act of debarring from the grounds of an Association and denying all racing privileges.

Secondary Pari-Mutuel Organization (SPMO) is an entity other than a licensed association that offers and accepts pari-mutuel wagers. This may include a gaming licensee, an off-track wagering system or an account wagering system.

Simulcast is the live audio and visual transmission of a contest to another location for pari-mutuel wagering purposes.

Stable Name is a name used other than the actual legal name of an owner or lessee and registered with the Commission.

Steward is a duly appointed racing official with powers and duties specified by rules.

Substantial Evidence is a evidence which a reasoning mind would accept as sufficient to support a particular conclusion and consists of more than a mere scintilla of evidence but may be somewhat less than a preponderance.

Suspended shall mean that any privilege granted to a licensee of the Commission by the officials of a racing meeting or by the Commission has been withdrawn.

Takeout is the total amount of money, excluding breakage, withheld from each pari-mutuel pool, as authorized by the statute or rule.

Week is a calendar week and/or any seven consecutive days.

Year is a calendar year.

### **2.03: Ejection and Exclusion**

(1) Pursuant to G.L. 128A, §10A, a Commissioner or any representative of the Commission or any Association may eject or exclude from the association grounds a person whose conduct is detrimental to the proper and orderly conduct of a racing meeting

(2) Any person excluded from the grounds of an Association, by said Association, shall be denied admission to said grounds until written permission for his or her re-entering has been obtained from the licensee association and written notification of such permission shall forthwith be filed with the Commission and approved by the Commission.

(3) A person ejected from the grounds of an Association licensed by the Commission shall be refused admission to the grounds of all other licensed Associations in Massachusetts until he or she has been permitted to re-enter the track where he or she was originally ejected in accordance with the procedure as provided for in 205 CMR 4.20(22).

(4) An appeal of an ejection must be filed with the Commission within 60 days of receipt of ejection. Failure to file an appeal within 60 days of the ejection will result in an automatic one calendar year ejection from all association grounds, after which the ejected person may petition for reinstatement with the Commission.

(5) Upon ejection of an occupational licensee the stewards and/or judges must be immediately notified. The Stewards or Judges shall hold a prompt hearing regarding the ejection of the licensee. The hearing shall be conducted in the same manner as other hearings conducted by the stewards and judges.

(6) Upon the ejection of an occupational licensee the ejector must take reasonable steps to ensure the safety and welfare of the horses are accounted for.

#### **2.04: Due Process and Hearings**

All hearings will be conducted in accordance with 205 CMR 101

#### **2.05: Licensing Fees**

(a) Harness and running horse racing license fees for a one year license:

- (1) Authorized Agent \$30 annual
- (2) Jockey \$60 annual
- (3) Jockey Apprentice \$60 annual
- (4) Jockey Agent \$60 annual
- (5) Driver \$30 annual
- (6) Owner \$30 annual
- (7) Trainer \$30 annual
- (8) Stable Employee \$5 annual
- (9) Veterinarian \$60 annual
- (10) Blacksmith \$25 annual
- (11) Racing Officials \$25 annual
- (12) Valet \$10 annual
- (13) Vendor \$10 annual
- (14) Stable Name \$60 annual
- (15) Partnership \$50 annual

(16) Other \$10 annual

(b) The Commission may issue a three-year license to participants for three times the annual cost. The licensee may be subject to supplemental background investigations at the discretion of the Commission. The Commission, at its discretion, may also require the licensee to resubmit their fingerprints during the term of the license.

(c) License fees are non-refundable

## **2.06 Licenses, Registration and Fees for Participants in Racing**

### (1) Licenses Required

- (a) A person shall not participate in pari-mutuel racing under the jurisdiction of the Commission without a valid license issued by the Commission. License categories shall include the following and others as may be established by the Commission:
1. racing participants and personnel;
  2. racing and operating officials;
  3. persons employed by the association, or employed by a person or concern contracting with or approved by the association or Commission to provide a service or commodity, which requires their presence in a restricted area, or which requires their presence anywhere on association 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.
- (c) License applicants may be required to furnish to the Commission a set(s) of fingerprints and a recent photograph and may be required to be re-fingerprinted or re-photographed periodically as determined by the Commission.

### (2) Fingerprinting and Licensing Reciprocity

- (a) The Commission may recognize the issuance of racing licenses from jurisdictions in North America for purposes of issuance of licenses in this jurisdiction.
- (b) Only permanent licenses in good standing shall be considered. Temporary or probationary licenses shall not be considered.
- (c) An applicant must be in good standing in each jurisdiction where they hold or have held a racing license.
- (d) The applicant must have submitted fingerprints within the past 36 months, or such other period as is required by this jurisdiction, for the purpose of a criminal records check by the Federal Bureau of Investigation (FBI) or Royal Canadian Mounted Police (RCMP). The applicant shall provide this jurisdiction with proof of licensure from another jurisdiction to which fingerprints were submitted.
- (e) The applicant shall submit the license application form and license fee required by this jurisdiction.

(3) Age Requirement

Applicants for licensing shall be a minimum of 16 years of age unless otherwise specified in these rules. An applicant may be required to submit a certified copy of his/her birth certificate. Persons under the age of 18 may be required to show evidence of active participation in a certified educational program or have a high school diploma or equivalent.

(4) Consent to Investigation and Distribution of Information

The filing of an application for license shall authorize the Commission to investigate criminal, financial and employment records, to engage in interviews to determine applicant's character and qualifications and to verify information provided by the applicant and to distribute information to other racing jurisdictions and government entities.

(5) Consent to Search and Seizure

By acceptance of a license, a licensee consents to search and inspection by the Commission or its agents and to the seizure of any prohibited medication, drugs, paraphernalia or devices in accordance with state and federal law. Any drugs, medication or other materials seized may be forwarded by the Commission to the official chemist for analysis. Any seized material may be forfeited.

(6) Protection of Horses

- (a) Each person licensed by the Commission shall do all that is reasonable and within his/her power and scope of duty to guard against and prevent the administration of any drug, medication or other substance, including permissible medication in excess of the maximum allowable level, to any horse entered or to be entered in an official workout or race, as prohibited by 205 CMR 3.00 or 4.00.
- (b) No licensee or other person under the jurisdiction of the Commission shall subject or permit any animal under his/her control, custody or supervision to be subjected to or to incur any form of cruelty, mistreatment, neglect or abuse or abandon, injure, maim or kill or administer any noxious substance to or deprive any animal of necessary care or sustenance, shelter or veterinary care.
- (c) A licensee shall report to the stewards any knowledge he/she has that a violation of 205 CMR 2.06(6)(a) or (b) has occurred or is reasonably likely to occur.

(7) Substance Abuse/Addiction

- (a) All licensees shall be deemed to be exercising the privileges of their license, and to be subject to the requirements of these rules, when engaged in activities that could affect the outcome of a race or diminish the conditions of safety or decorum required in restricted areas.
- (b) It shall be a violation to exercise the privileges granted by a license from this Commission if the licensee:
  - 1. Is engaged in the illegal sale or distribution of alcohol or a controlled substance;
  - 2. Possesses, without a valid prescription, a controlled substance;
  - 3. Is intoxicated or under the influence of alcohol or a controlled substance;

4. Is addicted, having been determined to be so by a professional evaluation, to alcohol or other drugs and not engaged in an abstinence-based program of recovery acceptable to the Commission; or
5. Has in his/her possession within the enclosure any equipment, products or materials of any kind which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled dangerous substance.

(8) Approval or Recommendations by Judges/Stewards

All occupational licenses shall require judges/stewards' prior approval or recommendation.

(9) Acceptance of an application and issuance of a photo id badge does not constitute an occupational license. All licenses are conditioned upon recommendation by the Judges/Stewards and approval by the Massachusetts State Police

(10) Employer Responsibility

- (a) The employment or harboring of any unlicensed person at facilities under the jurisdiction of the Commission is prohibited.
- (b) Every employer shall report the discharge of any licensed employee in writing to the Commission or its designee, including the person's name, occupation and reason for the discharge.

(11) Employer Endorsement of License Applications

The license application of an employee shall be signed by the employer.

(12) Workers' Compensation

Licensed employers shall carry workers' compensation insurance covering their employees as required by M.G.L. c.152

(13) Financial Responsibility

Applicants for a license may be required to submit evidence of financial responsibility and shall maintain financial responsibility during the period for which the license is issued.

(14) License Refusal

The Commission or its designee may refuse to issue a license and give the applicant the option of withdrawal of an application without prejudice. If an applicant is refused, the applicant may reapply for a license.

(15) License Denial

The Commission may formally deny an application in accordance with these rules. An application denied shall be reported in writing to the applicant stating the reasons for denial, the date when a reapplication may be submitted, and shall be reported to or the Association of Racing Commissioners International.



(16) Grounds for Refusal, Denial, Suspension or Revocation of License

- (a) The Commission or its designee may refuse to issue or may deny a license to an applicant, or may suspend or revoke a license issued, or may order disciplinary measures, if the applicant:
1. has been convicted of a felony or indictable offense;
  2. has been convicted of violating any law regarding gambling, a controlled dangerous substance, moral turpitude, or cruelty to animals;
  3. is unqualified to perform the duties required of the applicant;
  4. has failed to disclose or states falsely any information required in the application;
  5. has been found in violation of statutes or rules governing racing in this jurisdiction or other jurisdictions;
  6. has racing disciplinary charges pending in this jurisdiction or other jurisdictions;
  7. has been or is currently excluded from association grounds by a recognized racing jurisdiction;
  8. has had a license denied, suspended or revoked by any racing jurisdiction;
  9. is a person whose conduct or reputation may adversely reflect on the honesty and integrity of horse racing or interfere with the orderly conduct of a race meeting;
  10. demonstrates financial irresponsibility by accumulating unpaid obligations, defaulting in obligations or issuing drafts or checks that are dishonored or payment refused;
  11. is ineligible for employment pursuant to federal or state law because of age or citizenship; or
  12. has been associated or consorted with an individual who has been convicted of a crime in any jurisdiction.
- (b) A license suspension or revocation shall be reported in writing to the applicant and the Association of Racing Commissioners International.
- (c) The Commission or its designee, for cause, may restrict, limit or place conditions on any license.

(17) Relationships with 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 person. This prohibition shall not prevent the partners in a veterinary practice from providing services to horses as long as the inactive person does not receive a pecuniary benefit from those services.
- (b) An associated person of an inactive person shall not:
1. Assume the inactive 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 inactive person or an owner or customer for whom the inactive person has worked; or
  3. Pay or advance an entry fee for on behalf of the inactive person or owner or customer for whom the inactive person has worked.

(c) An associated person who assumes the responsibility for the care, custody, or control of an unsuspended horse owned (fully or partially), leased, or trained by an inactive person shall not:

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 inactive person or associated 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 commission.

(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 an inactive person shall:

1. Bill customers directly on his or her bill form for any services rendered at or in connection with any race meeting;
2. Maintain a personal checking account totally separate from and independent of that of the inactive person to be used to pay expenses of and deposit income from an owner or client of the inactive person;
3. Not use the services, directly or indirectly, of current employees of the 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 such expenses shall be retained for not less than six (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.

#### (18) Changes in Application Information

During the period for which a license has been issued, the licensee shall report to the Commission changes in information provided on the license applications as to current legal name, marital status, permanent address, pending criminal charges, criminal convictions, license suspensions of 10 days or more or license revocations or fines of \$500 or more in other jurisdictions.

#### (19) Temporary Licenses

The Commission may establish provisions for temporary licenses or may permit applicants to participate in racing pending action on an application.

#### (20) More Than One License

More than one license to participate in harness or running horse racing may be granted to a person except when prohibited by 205 CMR 2.00 due to a potential conflict of interest.

(21) Conflict of Interest

- (a) The Commission or its designee may refuse, deny, suspend or revoke the license of a person whose spouse holds a license and which the Commission or judges find to be a conflict of interest.
- (b) A commissioner or Commission employee or racing official shall not be an owner of a horse at a race meeting and shall not accept breeder awards at a race meeting where they have jurisdiction.
- (c) A racing official who is an owner of either the sire or dam of a horse declared to race shall not act as an official with respect to that race.
- (d) A person who is licensed as an owner or trainer, or has any financial interest in a horse registered for racing at a race meeting in this jurisdiction shall not be employed or licensed at that race meeting as a racing or operating official; racetrack director, officer or managing employee; track maintenance supervisor or employee; racetrack security employee; horseshoer; veterinarian; photo finish operator; horsemen's bookkeeper; racing chemist, or testing laboratory employee.

(22) License Presentation

- (a) A person shall present an appropriate license to enter a restricted area.
- (b) The judges or stewards may require visible display of a license in a restricted area.
- (c) A license may only be used by the person to whom it is issued.

(23) Visitor's Pass

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

(24) Knowledge of Rules

- (a) A licensee shall be knowledgeable of the rules of the Commission; and by acceptance of the license, agrees to abide by the rules.
- (b) A licensee shall report to track security or the judges or stewards any knowledge the licensee has that a perceived violation of these rules has occurred, or is reasonably likely to occur.

(25) Eligibility of a racing official

To qualify as a racing official the appointee must be licensed by the Commission after a determination that the person:

- (a) is of good moral character and reputation;
- (b) is experienced in and/or knowledgeable of harness racing;
- (c) is familiar with the duties to which the person is appointed and with the Commission's rules of harness racing; and

(d) is not under suspension or ejection by the USTA or any other racing or gaming commission.

(1) Approval and licensing of a racing or operating official

The Commission, in its sole discretion, may determine the eligibility of a racing or operating official and, in its sole discretion, may approve or disapprove any such official for licensing.

**2.07: Rulings in other jurisdictions**

(a) Reciprocity

The commission and the stewards/judges shall honor rulings from other pari-mutuel jurisdictions regarding license suspensions, revocation or eligibility of contestants.

(b) Appeals of Reciprocal Rulings

1. Persons subject to rulings in other jurisdictions shall have the right to request a hearing before the Commission to show cause why such ruling should not be enforced in this jurisdiction.
2. Any request for such hearing must clearly set forth in writing the reasons for the appeal.

**2.09: Totalisator Company Requirements and Vendor Requirements**

(1) Totalisator Company

A totalisator company, irrespective of whether the actual facility is located in this jurisdiction or operates from a location or locations outside of this jurisdiction, shall be licensed by the Commission. As a condition of licensing and annual license renewal the license application shall include with an application:

- (a) a list of personnel assigned to work in this jurisdiction
- (b) disclosure of all officers, directors, partners, and share holders with a five percent of greater share of ownership or beneficial interest
- (c) a list of all personnel and their current National Racing Compact license number, or their current license number issued by the Commission who have responsibility for or access to systems and facilities employed in the operation of a totalisator system pursuant to a contract with an association or secondary pari-mutuel organization (SPMO) licensed by the Commission,
- (d) certification of compliance with totalisator standards at the facility (s) from which totalisator system will be provided for the licensed association,
- (e) 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 and compliance with totalisator standards,

- (f) agreement to facility inspections and verification by the Commission,
- (g) agreement to testing of hardware and software as may be directed by the Commission.

(2) Other Vendors of Simulcast and Totalisator Systems Services

Entities providing uplink, downlink, and other means of communication or encryption of simulcasting and/or wagering information for APmWE or totalisator companies licensed by the Commission, irrespective of whether they provide, operate, service or otherwise have access to facilities and equipment located in this jurisdiction, must be licensed by the Commission. The license application shall include:

- (a) a copy of the contract(s) to provide services to an APmWE or totalisator company;
- (b) a list of personnel assigned to work in this jurisdiction, and a list of all personnel directly involved in providing such service who are not in this jurisdiction;
- (c) list of all officers, directors, partners, and share holders with a five percent or greater share of ownership or beneficial interest;
- (d) all persons employed by such entities pursuant to (b) and (c) above, who are not licensed by the Commission shall hold a current pari-mutuel vendor employee license issued by the National Racing Compact; and
- (e) a consent by the applicant that as a condition of its license, it will comply with M.G.L. c.128A, M.G.L. c.128C, 205 CMR 6.00, 205 CMR 7.00, and any directives issued by the Commission or its representatives.

**2.09 Player rewards program**

A player rewards program where no money is returned to the customer and whereby points are accumulated and redeemed for discounts on racing programs, food, non-alcoholic beverages, merchandise from the track gift shop, or other non-wagering type rewards is permissible. No racing meeting licensee shall rebate any money to a bettor based on a wager

**2.010 Waivers and Variances**

(a) General. The commission may in its discretion waive or grant a variance from any provision or requirement contained in 205 CMR 2.00 through 12.00, not specifically required by law, where the commission finds that:

1. Granting the waiver or variance is consistent with the purposes of M.G.L. c. 128A and 128C;
2. Granting the waiver or variance will not interfere with the ability of the commission or the racing division to fulfill its duties;
3. Granting the waiver or variance will not adversely affect the public interest; and

4. Not granting the waiver or variance would cause a substantial hardship to the person requesting the waiver or variance.

(b) Filings. All requests for waivers or variances shall be in writing, shall set forth the specific provision to which a waiver or variance is sought, and shall state the basis for the proposed waiver or variance.

(c) Determination. The commission may grant a waiver or variance, deny a waiver or variance, or grant a waiver or variance subject to such terms, conditions and limitations as the commission may determine. Any waiver request not acted on by the commission within 60 days of filing shall be deemed denied.

# 205 CMR 3.00: Harness Horse Racing

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### **3.01: Foreword**

The Massachusetts Gaming Commission, hereinafter referred to as the Commission, was created by an act of the Legislature of the Commonwealth of Massachusetts in the year 2011. M.G.L. c. 23K as inserted by the session laws of 2011, c.194 section 16 and amendments, states that the Commission shall have full power to prescribe rules, regulations and conditions under which all harness horse races or harness horse racing meetings shall be conducted in the Commonwealth.

205 CMR 3.00 applies to all persons or individuals, associations or corporations, which shall hold or conduct any harness horse racing meeting within the Commonwealth of Massachusetts licensed by the Commission where harness horse racing shall be permitted for any stake, purse or reward and the definitions here given are to be considered in connection with the rules of harness horse racing and as a part of them.

All licensees and participants are charged with knowledge of 205 CMR 3.00. No licensee or other person shall engage in his or her occupation or trade at any Massachusetts harness horse race track without first reading the 205 CMR 3.00.

Should any question arise as to the meaning of any rule or regulation, the Commission or its representatives will be available to provide an explanation.

205 CMR 3.00 shall also apply to any participant in or patron of any such licensed meeting. In reading 205 CMR 3.00, unless the text otherwise requires, it shall be understood, without constant reference thereto, that they apply only in the Commonwealth of Massachusetts.

Every license to hold a meeting is granted upon the condition that the licensee shall accept, observe and enforce 205 CMR 3.00. Furthermore, it shall be the duty of each and every officer, director and every official and employee of said licensee to observe and enforce 205 CMR 3.00. Any and all of 205 CMR 3.00 may be amended, altered, repealed or supplemented by new and additional rules.

The Commission may make exceptions to any rule or rules in individual instances as in their judgment they may deem proper.

The Commission may rescind or modify any penalty or decision or infraction of the rules imposed or made by the racing officials.

M.G.L. c.128A and 205 CMR 3.00 supersede the conditions of a race, or the regulations of a race meeting.

205 CMR 3.00 as promulgated by the Commission are supplemented by the State Administrative Procedure Law found in M.G.L. c. 30A. M.G.L. c. 30A provides the procedures that must be followed by all state agencies on such matters as the amending process and the adjudicatory procedure. Under M.G.L. c. 30A, any interested party has the right to attend all hearings conducted by the Commission for the purpose of the adoption or amendment of any rule



or regulation. The Commission shall afford any interested person an opportunity to present data, views or arguments in regard to any proposed rule change. Upon written notice to the Commission, a person may request the adoption, amendment or repeal of any regulation with an opportunity to present data, views or arguments in support of such request.

If a dispute should arise concerning a ruling by a ~~steward~~-judge or other racing official, any party affected by such ruling has a right to an appeal to the Commission upon written notice to the Commission within ten days. At such hearing each party shall be given an opportunity to be represented by an attorney, to call and examine witnesses, to introduce exhibits, to cross examine witnesses who testify and to submit rebuttal evidence. The Commission shall make available upon request an official record of the hearing and a party may request and receive a transcript of such record upon payment to the Commission of the cost of such transcript. The Commission shall provide, in writing, its decision along with findings of fact and conclusions of law.

Any person who does not agree with a final decision of the Commission shall be entitled to judicial review of such decision by filing a petition for review in Superior Court within 30 days after receipt of notice of the final decision of the Commission. The review shall be conducted by the court without a jury and in most instances, shall be confined to the record.

The rules on pari mutuel wagering are located in an entirely separate rulebook entitled 205 CMR 6.00 Pari mutuel Rules for Horse Racing, Harness Horse Racing and Greyhound Racing.

The Massachusetts Gaming Commission adopts the United States Trotting Association Rules and Regulations as amended; and supplements those rules and regulations with 205 CMR 3.00.

In any situation where a conflict exists between the United States Trotting Association Rules and 205 CMR 3.00, 205 CMR 3.00 will govern. In any instance where a situation is not covered by the U.S.T.A. Rules, 205 CMR 3.00 will govern and vice versa. The assessment of fines and suspensions shall be in the discretion of the Judges and the Gaming Commission.

### **3.02: Definitions**

The following definitions and interpretations shall apply in 205 CMR 3.00 unless the text otherwise require:

Administer or Administration is the introduction of a substance into the body of a horse.

Arrears includes all monies due for entrance, forfeits, fees, forfeitures, subscriptions, stake, and also any default in money incident to the Rules.

Associated Person is the spouse of an inactive person, or a companion, family member, employer, employee, agent, partnership, partner, corporation, or other entity whose relationship, whether financial or otherwise, with an inactive person would give the appearance that such

other person or entity would care for or train a racing animal or perform veterinarian service on a racing animal for the benefit, credit, reputation, or satisfaction of the inactive person.

Association. Any person or persons, associations, or corporations licensed by the Commission to conduct harness horse racing within the Commonwealth of Massachusetts for any stake, purse or reward.

Assumed Name. Shall be a name other than the given name or legal name of an individual. Assumed names shall include but shall not be confined to racing, stable names, farm names, association, corporations, partnerships (when the actual legal names of the partners are not used); ~~Nom de Course, etc.~~

Authorized Agent is a person appointed by a written instrument signed by the owner and filed in accordance with 205 CMR 3.05. (See Section under "Authorized Agent".)

Bleeder is a horse which has demonstrated external evidence of exercise induced pulmonary hemorrhage.

Bleeder List is a tabulation of all bleeders to be maintained by the Commission.

Breeder of a horse is the owner of its dam at the time of foaling.

Breeding Place is the place of horse's conception.

Calendar Day is 24 hours ending at midnight.

Controlled Therapeutic Medication is any medication approved by the Association of Racing Commissioners International for which the regulatory analyte concentration in the sample(s) may not exceed specified regulatory limits published in 205 CMR 3.00.

Day shall mean calendar day.

Declaration shall mean the naming of a particular horse to a particular race as a starter.

Ejected shall mean the removal from the grounds of an Association.

Entry shall mean according to the requirements of the text:

- (a) a horse made eligible to run in a race,
- (b) two or more horses which are entered or run in a race owned by the same owner or trained by the same trainer.

Equipment. As applied to a horse shall mean harness, hobbles, bits, shadow rolls, blinkers, poles, tongue straps, bandages, boots, toe weights, gaiting straps, shoes, head numbers, saddle numbers, sulkies, whips, spurs, etcetera.

Exclusion is the act of an association preventing a person from entering or remaining on the grounds of that association under the jurisdiction of the commission.

Field. When the individual horses competing in a race exceed the numbering capacity of the Tote, the highest numbered horses within the capacity of the Tote, and all horses of a higher number shall be grouped together and called the "Field."

Forfeit shall mean money due because of an error, fault, neglect of duty, breach of contract, or a penalty.

Forfeiture shall mean any money imposed as a penalty by the Judges or Starter of the meeting.

Furosemide List means a tabulation of all horses eligible to participate in a race with furosemide in its system.

Inactive Person is any person whose license has been suspended for more than 30 days; whose license has expired or been revoked; or whose license application has been denied.

Judges shall mean the Judges of the meeting or their duly appointed deputies.

Licensee shall mean any Association receiving a license from the Commonwealth of Massachusetts to conduct harness horse racing.

Medication is any substance or metabolite capable of exerting a pharmacological effect on the horse's system with an accepted use in the diagnosis, cure, treatment or prevention of a veterinary medical condition.

Meeting. Whole consecutive period for which license to race has been granted to any one Association by the Commission.

Month is a calendar month.

Nominator is the person in whose name a horse is entered for a race.

Owner includes sole owner, part owner or lessee of a horse. An interest only in the winnings of a horse does not constitute part ownership.

Place in racing shall mean first, second, third or fourth position at the finish of a race and in that order is called "Win," "Place," "Show" and "Fourth."

Post Position is the position assigned to the horse at the start of the race.

Post Time is the time set for the arrival at the starting point of the horses in a race and must be shown a reasonable time prior to the race on a clock device, provided for that purpose, prominently displaced and clearly readable from the grandstand.

Race. A contest between horses for purse, stakes, premium, wager for money or admission fees on any course and in the presence of a judge or judges.

~~Race Day means any period of 24 hours beginning at midnight and included in the period of a race meeting and in the matter of penalties the word "day" means a "race day."~~ **A day during a racing meeting when pari-mutuel wagering is conducted on live racing. In the matter of penalties the word "day" shall mean a "calendar day."**

Recognized Meeting shall be any meeting wherever held under the sanction of the United States Trotting Association having reciprocal relations with the Massachusetts Gaming Commission for the mutual enforcement of rulings imposed on persons guilty of fraudulent turf practices of any kind.

Rule Off shall mean the act of debarring from the grounds of an Association and denying all racing privileges.

Rules shall mean all the rules and Regulations herein prescribed in the current rules of the U.S.T.A. and 205 CMR 3.00 and any amendments or additions thereto.

Scratch shall mean the act of withdrawing an entered horse from a race after the closing of overnight entries.

Scratch Time shall mean the time set by the Association for the closing of applications for permission to withdraw from races of that day.

Subscription shall mean the act of nominating to a stake race.

Suspended shall mean that any privilege granted to a licensee of the Commission by the officials of a racing meeting or by the Commission has been withdrawn.

Starter. A horse is a "starter" for a race when the Starter dispatches the horses with the word "Go."

Tote or Tote Board shall mean the totalisator.

Year shall mean a calendar year.

### **3.03: Appeal to the Commission (repealed)**

~~(1) A final appeal in the case of any person penalized or disciplined by the racing officials of a meeting licensed by the Commission may be taken to the Commission.~~

~~(2) Such an appeal must be filed in writing at the office of the Commission within ten days of date of said penalty or imposition of said discipline.~~

~~(3) The request shall be signed by the person making it and must set forth his or her reason for believing he or she is entitled to a hearing.~~

~~(4) An applicant for a hearing will be heard in person and may be represented by counsel.~~

~~(5) All complaints and requests to the Commission must be in writing, and all papers filed with the Commission shall be the property of the Commission.~~

~~(6) An appeal from a decision of a racing official to the Commission shall not affect such decision until the Commission has acted upon the appeal unless otherwise ordered by a court of competent jurisdiction. The Commission may vacate, modify or increase any penalty imposed by the Judges and said decision of the Commission shall be final.~~

### **3.04: Stables Names, Registration Fees, Restrictions, etc.** (Repealed)

~~(1) Each stable name must be duly registered with the Commission.~~

~~(2) In applying to race under a stable name, the applicant must disclose the identity or identities behind a stable name.~~

~~(3) If a corporation is involved in the identity behind a stable name, 205 CMR 3.06 must be complied with.~~

~~(4) Changes in identities must be reported immediately to and approval obtained from the Commission.~~

~~(5) A person cannot register more than one stable name at the same time nor can he or she use his or her real name for racing purposes so long as he has a registered one.~~

~~(6) Any person who has registered under a stable name may at any time cancel it after he or she has given written notice to the Commission.~~

~~(7) A stable name may be changed at any time by registering a new stable name and by paying the required fee.~~

~~(8) A person cannot register as his or her stable name one that has been registered by any other person with any Association conducting a recognized meeting.~~

~~(9) A person may not register as his or her stable name one which is the real name of any owner of race horses nor one which is the real or assumed name of any prominent person not owning race horses.~~

~~(10) A stable name shall be plainly distinguishable from that of another duly registered stable name.~~

~~(11) A corporate name shall be considered a stable name for the purpose of 205 CMR 3.00, but the Commission reserves the right to refuse any corporation the privilege of registering a stable name.~~

~~(12) A trainer, who is a licensed owner or part owner, may use a stable name as owner or part owner. However, no trainer may be licensed as a trainer other than in his/her legal name.~~

### **3.05: Authorized Agent: Licenses, Filing Instrument, etc.**

~~(1) Each authorized agent must obtain a license from the Commission.~~

~~(2) Application for a license must be filed for each owner represented.~~

~~(3) If a written instrument signed by the owner accompanies the application it shall clearly set forth among the delegated powers whether or not said agent is empowered to collect money from the Association.~~

~~(4) If the written instrument is a power of attorney, it shall be filed permanently with the Racing Secretary. If, however, the powers are properly delegated by the owner on the application form for a license then said application shall be in duplicate with both copies signed and sworn to before a Notary Public and one copy filed permanently with the Racing Secretary.~~

~~(5) An Authorized Agent may appoint a sub-agent only when specifically authorized so to do by the above-said written instrument and, to be effective, notice of such appointment must be given immediately in writing to the Commission.~~

~~(6) Any changes must be in writing and filed as above provided.~~

~~(7) If an agent represents more than one owner a separate written instrument shall be filed for each owner and a separate fee paid in each case.~~

~~(8) The term of the license shall be the calendar year unless the owner revokes the agent's appointment or the Commission revokes the license.~~

~~(9) An owner's revocation of an authorized agent's authority must be filed in writing with the Commission and with the Racing Secretary.~~

#### **(1) Licenses Required**

**(a) An authorized agent shall obtain a license from the Commission.**

**(b) An application for license shall be required for each owner represented.**

**(c) 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.**

**(d) If the written instrument is a power of attorney it shall be filed with the Commission and attached to the application form.**

- (e) Any changes shall be made in writing and filed as provided in this section.
- (f) The authorized agent's appointment may be terminated by the owner or authorized agent, in writing, and filed with the Commission.

(2) Powers and Duties

- (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 such 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 at a race meeting. Any change in ownership shall be reported immediately to, and approved by, the judges and recorded by the breed registry.

**3.06: Corporations (Repealed)**

~~(1) Corporations racing horses in Massachusetts shall furnish the following information:~~

~~(a) The corporation shall furnish to the Commission and the Judges a statement giving the names of all persons connected with the corporation including officers, directors and stockholders.~~

~~(b) The corporation shall furnish to the Commission and the Judges a certificate stating that no person or persons connected with the corporation (officer, director or stockholder) have any beneficial interest in any horse or horses running in their name or the name of any other person or persons racing at the same track where the corporation owned horses are running.~~

~~(c) The corporation shall designate to the Commission and the Judges the name of one individual, preferably an officer (not the trainer), who shall act as agent for the corporation.~~

~~(2) All licensed persons listed in the corporation shall be liable for entry fees and penalties against horses raced by the corporation.~~

~~(3) In the event that one of the persons listed in the corporation is suspended all horses owned by the corporation may be suspended.~~

~~(4) Each of the persons holding a beneficial interest in the corporation shall be in good standing in racing.~~

~~(5) Each of the persons holding a beneficial interest in the corporation shall be licensed as an owner.~~



~~(6) The agent designated to act for the Corporation and any person holding a beneficial interest of 20% or more in the Corporation shall be licensed as owners. Any person whose beneficial interest in the Corporation is less than 20% shall not be licensed as an owner. If a husband and wife are listed in the Corporation and their beneficial interest in the Corporation represents twenty percent or more of the Corporation they each shall be licensed as owners.~~

~~All the stockholders or members of a corporation which leases horses for racing purposes in the Commonwealth of Massachusetts and also all such corporations shall make and file with the Commission as and when requested by it, a report or reports containing such information as the Commission may specify; and upon refusal or failure to file such report or reports the Commission may refuse a license to any lessee or lessees of such corporation or may revoke any such license which it may have granted.~~

### **3.07: Corrupt Practices**

(1) No person shall influence, induce or conspire or connive with or attempt to do so, any owner, trainer, jockey, agent, driver, groom or other person associated with or interested in or having charge of or access to any horse entered or to be entered in a race for the purpose of fraudulently affecting the ultimate result of such race.

(2) No person shall give, offer, or promise, directly or indirectly, either in his or her own behalf or in behalf of another, any bribe, gift or gratuity in any form, for the purpose of influencing the result of a race, or which would tend to do so, to any of the following:

- (a) racing officials or their assistants,
- (b) owners, trainers, drivers, or their agents,
- (c) any other person having duties in connection with a race or with the care of a race horse,
- (d) any other person.

(3) No racing official or his or her assistant, no owner, trainer, driver, agent, no person having charge of or access to any horse, nor any other person shall accept or offer to accept on his or her own behalf or on behalf of another, any bribe, gift or gratuity in any form to influence the result of a race or which would tend to do so.

(4) No person shall willfully enter, or cause to be entered, or start a horse that he or she knows or believes to be ineligible or disqualified.

(5) No person shall offer or receive money or any other benefit for scratching an entry from a race.

(6) No person shall conspire with any other person for the commission of, or connive with any other person in any corrupt or fraudulent practice in relation to racing nor shall he or she commit such act on his or her own account.

(7) No person shall solicit bets on the grounds of an Association.



(8) No electrical or mechanical device or other expedient designed to increase or decrease the speed of a horse (or that would tend to do so), other than a whip, without having a whip spur attached thereto, shall be possessed by anyone or applied by anyone to a horse at any time on the grounds of an Association, during a meeting whether in a race or otherwise.

(9) No person shall tamper or attempt to tamper with any horse or equipment in such a way as to affect his or her speed in a race, nor shall he or she counsel or in any way aid or abet any such tampering.

### **3.08: Dead Heats Repealed**

~~(1) When two or more horses run a dead heat, the dead heat shall not be run off.~~

~~(2) The owners of the horses in a dead heat shall divide equally the purse money involved.~~

~~(3) If a dead heat is for first place, each horse shall be considered a winner of the amount received according to the preceding rule.~~

~~(4) When a dead heat is run for first, second, third, or fourth place and an objection is made to one of the horses in the dead heat and sustained the remaining horse in the dead heat shall be deemed the winner of the position in question.~~

~~(5) When a dead heat is run for second place and an objection is made to the winner of the race, and sustained, the horses that run the dead heat shall be deemed to have run a dead heat for first place.~~

~~(6) Owners shall divide equally all monies and other prizes and if no agreement can be reached as to which of them shall receive the cup, plate or other indivisible prize, they shall draw lots for it in the presence of one or more of the Judges.~~

### **3.09: Drivers**

~~(1) Every driver shall, at the request of the Judges, undergo a physical examination to determine his or her fitness to drive. The report of such examination duly signed by the examining physician shall be filed with the Judges.~~

~~(2) All drivers shall, at the request of the Judges, be required to take an eye test. The report of such examination duly signed by the examining physician or optometrist shall be filed with the Judges.~~

(1) A person shall not drive a horse in any race or performance against time, other than an exhibition race, without being licensed by the Commission.

(2) The judges may review the performance of a driver at any time and may take the following actions:

- (a) amend the license category in accordance with United States Trotting Association license classifications;
  - (b) revoke the license;
  - (c) apply conditions to the license; or
  - (d) require the driver to re-qualify for the driver's license.
- (3) Drivers must report to the paddock judge at least one hour prior to post time of any race in which they are programmed to drive, unless excused by the judges.
- (4) A driver cannot decline to be substituted by the judges.
- (5) Once a driver reports to the paddock the driver shall not enter the public stands or the betting area until the driver's driving duties for the day have been completed.
- (6) A driver shall not enter the public stands or betting area while wearing colors.
- (7) The judges may remove a driver at any time and substitute an alternate driver.
- (8) A driver shall not drive for any other person in a race in which one of the horses the driver trains or owns has been declared into race, except where such horses are coupled as an entry.
- (9) Drivers shall fulfill all engagements, unless excused by the judges.
- (10) For the period of two hours before post time of the first race of the day and until the racing program of the day has been completed, every person who drives a horse on a track licensed by the Commission, whether warming up for a race or driving in a race shall wear his or her registered colors, which must be distinguishable at all times.
- (11) Drivers must keep a rein in each hand from the time they are called to the gate by the Starter through finish of each race. One handed whipping is prohibited at all times.
- (12) During the running of the race, drivers are required to maintain an upright position. Excessive leaning or excessive lying back in the sulky is prohibited.

(13) Safety Helmets

A protective helmet, race meeting the 1984 Standard for Protective Headgear (Snell Memorial Foundation), Laboratory Procedure for Motorcycle Helmet Testing (Federal Motor Vehicle Safety Standard No. 218, U.S. 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:

- (a) racing, parading, or warming up a horse prior to racing; or
- (b) jogging, training, or exercising a horse at any time.

(14) Safety Vests

- (a) A safety vest shall be worn 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 vest shall:

1. Cover the torso, front and back, from the collar bone to the hip bone;
2. Be of uniform material and thickness over the whole of the vest except for localized:
  - a. Variation due to pattern, for example, quilting.
  - b. Thinner areas to aid fit, for example, under the arms, at fastenings and at edges, and
  - c. Thicker areas in regard to particularly sensitive areas of the body, for example, the spine.
3. Equal or exceed a minimum shock absorbance rating of 5 according to the specifications established by the British Equestrian Trade Association (BETA).

#### (15) Racing Colors

Drivers must wear distinguishing colors, and shall not be permitted to drive in a race or other public performance unless, in the opinion of the judges, they are properly dressed, their driving outfits are clean and they are well groomed. 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.

### **3.10: Forfeitures and Suspensions**

- (1) No racing official other than the Judges and the Starter shall have the right to impose a forfeiture or suspension.
- (2) The Judges may not rescind a forfeiture, except with the approval of the Commission.
- (3) A racing official imposing a forfeiture or suspension shall report it promptly to the Clerk of Course in writing.
- (4) 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 such entry; except that, if the license of a driver has been suspended for a routine driving offense, the judges may waive this rule.
- (5) All forfeitures shall be paid to the Gaming Commission within 48 hours after imposition.
- (6) Suspensions shall be for consecutive calendar days.
- (7) Any Official, Owner, Trainer or any person licensed by the Massachusetts Gaming Commission who shall obtain food, feed, shelter, drugs, transportation, services for horses, veterinary services or supplies for himself or herself or others whether they be licensed or not, and fails to pay the fair market value to the person or persons from whom said services or supplies are obtained shall be guilty of conduct detrimental to the best interest of racing and may be suspended at the discretion of the Judges or the Commission, however, neither the Association nor the Massachusetts Gaming Commission shall be obligated to collect debts from horsemen or other personnel licensed by the Commission.

### **3.11: General Rules**

(1) The definitions and interpretations of racing terms, heretofore set forth as well as 205 CMR 3.01: Foreword, are to be considered in connection with 205 CMR 3.00 and as part of them.

(2) All owners and trainers of horses and their stable employees are subject to M.G.L. c.128A and 205 CMR 3.00 immediately upon acceptance and occupancy of stabling accommodations from or approved by an Association or upon making entry to run on its track.

(3) Owners, trainers and stable employees shall abide by M.G.L. c.128A and 205 CMR 3.00 and accept the decision of the Judges on any and all questions to which their authority extends, subject to their right of appeal to the Commission.

(4) Every person participating in and every patron of a licensed Race Meeting shall abide by M.G.L. c.128A and 205 CMR 3.00, and accept the Judges' decisions on any and all questions to which their authority extends, subject to the right of appeal to the Commission.

~~(5) Every person who drives a horse on a track licensed by the Commission, whether exercising, warming up or driving in a race shall wear a protective helmet of a type approved by the Judges.~~

~~(6) For the period of two hours before post time of the first race of the day and until the racing program of the day has been completed, every person who drives a horse on a track licensed by the Commission, whether warming up for a race or driving in a race shall wear his or her registered colors, which must be distinguishable at all times.~~

(75) No person shall use improper, profane or indecent language to a racing official.

(86) No person shall in any manner, or at any time, disturb the peace or make himself or herself obnoxious on the grounds of the Association.

(97) Any person, who participates in an unrecognized meeting anywhere, either as a racing official or as an owner, trainer or driver, may be adjudged guilty of conduct detrimental to racing.

~~(10) No person or horse ruled off, or under full suspension by the United States Trotting Association shall be admitted to the grounds of any Association.~~

(118) No person, other than an official of the Commission, shall be allowed in the Judges' Stand; the space occupied by the Clerk of Course; the Timers Stand; and the space occupied by the Program Director and his or her assistants for the period from ½ hour before post time of the first race of the day until the last race has been declared "official" unless permission is obtained from the Judges for each entry. Associations shall take such steps as are necessary to assist the Judges in carrying out the provisions of 205 CMR 3.11(8).

~~(12) Any person who has been convicted by any court anywhere for illegal possession, sale or giving away of narcotics may be ruled off.~~

(139) If any owner, trainer, driver, stable employee, or other person solicit bets from the public by correspondence or other methods, to be made on any horse which is to run on a track in Massachusetts, such person or persons shall be ruled off.

(1410) When a person is ruled off a course or suspended, every horse owned in whole or part by him or her shall be ineligible to be entered or to start in any race until said horse has been reinstated either by the rescinding of his or her owner's penalty or his or her transfer through bona fide sale to an ownership acceptable to the Judges.

(151) When a person is suspended by the Judges of the meeting "from driving only" the ruling of the Judges shall state whether or not the person suspended shall have the privilege of the paddock during the period of his or her suspension.

(162) When a person is ruled off a course or suspended, any horse which is under his or her care, management, training or superintendence shall not be qualified to be entered or to start in any race until said horse has been reinstated by the rescinding of said person's penalty or by the placement of the horse in the hand of a licensed trainer and the approval of the transfer by the Judges.

(173) When a person is ruled off a course or suspended, he or she shall not be qualified, whether acting as agent or otherwise to subscribe for or to enter or run any horse in any race either in his or her own name or in that of any other person until the rescinding of that person's penalty.

(184) Any horse that has been the subject of fraudulent practice may be disqualified.

(195) When a person is ruled off for any fraudulent practice in relation to a particular horse, wholly or partly belonging to him or her, he or she shall return all money or prizes that such horse has fraudulently won.

~~(20) Violators of any rule will be subject to ejection from the grounds, and/or to forfeiture, suspension or ruling off.~~

~~(21) Complaints against a racing official other than a judge or his or her assistant shall be made to the judges in writing and be signed by the complainant. Complaints against a judge shall be made in writing to the Commission and be signed by the complainant.~~

~~(22) Printed for each racing day shall be a program compiled by the Program Director which shall contain the names of the horses that are to run in the races for that day, these names to appear in the order of their post positions, the said position to be designated by numerals placed at the left and in line with the name of the horses in each race, which shall also be prominently displayed on each horse. The program shall also contain, in addition to the horse's name, its sex, color, age, sire and dam; the owner's name and address; the name of the trainer; the driver's name, date of birth, and colors; class and/or sub-group of race; as many performance lines of the current or preceding year as the USTA deems appropriate; an indication if the driver is racing with a provisional license, and any other useful information approved by the judges.~~

(2316) Before a horse may go an official time workout before the Judges, he or she must first be posted in the entry room of the Association as being classified in the preferred or invitational category at the current meeting in progress.

(2417) Every Racing Association, the Commission or Judges investigating for violations of the law or rules and regulations of racing adopted by the Commission shall have the right to permit persons authorized by any of them to search the person, or enter and search the building, stables, room, vehicles or other places within the grounds of the Association or at other places where horses which are eligible to race are kept together with the personal property and effects contained therein. Every licensed person or person permitted to pursue his/her occupation or employment within the grounds or any Association by accepting his/her license or such permission does thereby irrevocably consent to such search as aforesaid and waive and release all claims or possible actions for damages that he/she may have by virtue of any action taken under 205 CMR 3.00.

~~(25) No licensee or other person under the jurisdiction of the Commission shall subject or permit any animal under his/her control, custody or supervision to be subjected to or to incur any form of cruelty, mistreatment, neglect or abuse or abandon, injure, maim or kill or administer any noxious substance to or deprive any animal of necessary care or sustenance, shelter or veterinary care.~~

### **3.12: Judges**

~~(1) The Judges shall have the power to interpret 205 CMR 3.00 and to decide all questions not specifically covered by them, such decisions to be reported to the Commission within 24 hours.~~

~~(2) In matters pertaining to racing, the orders of the Judges supersede the orders of the officers and directors of the Association.~~

~~(3) The Judges shall have general supervision over owners, trainers, drivers, grooms and other persons attendant on horses, and also over all the other officials of the meeting.~~

~~(4) During each racing day the Judges of the meeting shall be at the office building on the grounds of the Association where the racing meeting is being held not later than one hour before post time of the first race of the day to exercise the authority and perform the duties imposed on the Judges by the Rules of Racing.~~

~~(5) At least one Judge shall occupy the Judges' Stand during the running of all qualifying races and non-wagering races.~~

~~(6) The Judges shall require all horses not showing a satisfactory racing line during the previous 30 days to go a qualifying mile in a race before the Judges. The Association may request a waiver of this requirement.~~

~~(7) All questions pertaining to the conduct of the meeting shall be determined by a majority of the Judges.~~

~~(8) No hearing shall be held on 205 CMR 3.00 following the last race of any day during the racing meeting, unless by special permission of the Commission. 205 CMR 3.12(8) shall not apply on the last day of any racing meeting.~~

~~(9) The Judges shall occupy the Judges Stand the time the post parade is formed for each race until the race is made official, and their duty shall be to place and record five horses or as many more as they think proper in the order of their finish in each race.~~

~~(10) The Judges shall properly display the numbers of the first four horses in each race in the order of their finish.~~

~~(11) When the Judges differ in their placing the majority shall prevail.~~

~~(12) The Judges shall make public their decision as promptly as possible.~~

~~(13) If it is considered advisable to consult a picture from the finish camera, the Judges shall post, without waiting for a picture, such placements as are in their opinion unquestionable, and after consulting the picture, make the other placements.~~

~~(14) The Judges may call for a picture from the photo finish camera to aid them in arriving at a decision. However, in all cases the camera is merely an aid and the decision of the Judges shall be final.~~

~~(15) In determining the places of the horses at the finish of a race, the Judges shall consider only the relative position of the respective noses of such horses.~~

~~(16) After the finish of the race all drivers shall report to the Judges' Stand. The Judges shall not declare the race official until each driver has had an opportunity to file a protest as to what occurred in the race.~~

~~(17) There shall be no alteration of placement after the sign "Official" has been purposely displayed, except as in provided in 205 CMR 6.00: Pari-mutuel Rules for Horse Racing, Harness Horse Racing and Greyhound Racing.~~

~~(18) The Judges shall each day file with the Commission a copy of the official placement of the first five horses in each race of that day and shall supply to the other officials such information in respect to the racing as the Association may require.~~

~~(19) The Judges may suspend for no greater period than 180 days anyone whom they have authority to supervise, or they may impose a forfeiture, not exceeding \$3,000.00. All such suspensions and forfeitures must be reported to the Commission. If the punishment to be imposed is not in the opinion of the Judges sufficient, they shall so report to the Commission.~~



(1) Accreditation

To qualify for appointment as a judge, the appointee shall meet the experience, education and examination requirements necessary to be accredited by the Racing Officials Accreditation Program, and licensed by the USTA as a judge.

(2) General Authority

- (a) The judges for each race meeting shall be responsible to the Commission for the conduct of the race meeting in accordance with the laws of this jurisdiction and 205 CMR.
- (b) The judges shall enforce 205 CMR..
- (c) The judges' authority includes supervision of all racing officials, track management, licensed personnel, other persons responsible for the conduct of racing and patrons, as necessary to ensure compliance with 205 CMR.
- (d) The judges shall have authority to resolve conflicts or disputes related to racing and to discipline violators in accordance with the best interests of racing.
- (e) The judges have the authority to interpret 205 CMR and to decide all questions of racing not specifically covered therein.
- (f) The judges may postpone or cancel races in the event of unfavorable weather or other unavoidable cause.

(3) Period of Authority

The judges' period of authority shall commence with the opening of the barn area prior to the beginning of each race meeting and shall terminate with completion of their business pertaining to the meeting. The Commission or its designee shall assume authority if no judge is seated.

(4) Disciplinary Action

- (a) The judges shall take notice of alleged misconduct or rule violations and initiate investigations into the matters.
- (b) The judges shall have authority to charge any licensee for a violation of 205 CMR, to conduct hearings and to impose disciplinary action in accordance.
- (c) The judges may compel the attendance of witnesses and the submission of documents or potential evidence related to any investigation or hearing.
- (d) The judges may at any time inspect license documents, registration papers and other documents related to racing.
- (e) The judges have the power to administer oaths and examine witnesses.
- (f) The judges shall consult with the official veterinarian to determine the nature and seriousness of a laboratory finding or an alleged medication violation.
- (g) The judges may impose, but are not limited to, any of the following penalties on a licensee for an attempt to violate or a violation of these rules:
  - 1. issue a reprimand;
  - 2. assess a fine;
  - 3. require forfeiture or redistribution of purse or award, when specified by applicable rules;
  - 4. place a licensee on probation;



5. suspend a license or racing privileges;
  6. revoke or cancel a license;
  7. exclude from grounds under the jurisdiction of the Commission; or any relief deemed appropriate.
- (h) The judges may suspend a horse from participation in racing.
- (i) The judges may suspend a license for not more than one year per violation; or they may impose a fine not to exceed \$3,000 per violation; or they may suspend and fine; or they may order that a person be ineligible for licensing.
- (j) The judges shall submit a written report to the Commission of every inquiry and hearing.
- (k) A judges' ruling shall not prevent the Commission from imposing a lesser or more severe penalty.
- (l) The judges may refer any matter to the Commission and may include recommendations for disposition. The absence of a judges' referral shall not preclude Commission action in any matter.
- (m) Purses, prizes, awards, and trophies shall be redistributed if the judges or Commission order a change in the official order of finish.
- (n) All fines imposed by the judges shall be paid to the Commission within 48 hours after the ruling is issued, unless otherwise ordered.

(5) Protests, Objections and Complaints

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.

(6) Judges' Presence

Three judges shall be present in the judges' stand during the contesting of each race.

(7) Order of Finish for Pari-Mutuel Wagering

(a) The judges shall determine the official order of finish for each race in accordance with 205 CMR 3.12. The decision of the judges as to the official order of finish, including the disqualification of a horse or horses as a result of any event occurring during the contesting of the race, shall be final for purposes of distribution of the pari-mutuel wagering pool.

(b) Photo finish

1. In the event the judges request a photo of the finish, the photo finish sign shall be posted on the totalisator board.
2. In the event a photo was requested, the placing judges shall cause a computer-generated photographic image of said finish to be produced. The finish photograph shall, when needed, be used by the judges as an aid in determining the correct order of finish.

3. Following their review of the photo finish, the judges shall determine the exact order of finish for all horses participating in the race, and shall immediately cause the numbers of the first four finishers to be posted on the totalisator board.

(c) Dead Heats

1. In the event the 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.
2. In the event one or more of the first four finishers of a race are involved in a dead heat, the 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.

(8) Cancel Wagering

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

(9) Records and Reports

- (a) 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 contain 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.
- (b) The presiding judge shall maintain a detailed log 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.
- (c) Not later than seven 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 contain:
  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 association or action by the Commission.

(10) Judges' List

- (a) The judges shall maintain a Judges' List of the horses which are ineligible to be declared in a race.
- (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. The owner or trainer shall be notified of such 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 the course/field representative shall make an entry on the

eligibility certificate of such 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 any horse on the Judges' List for performance when such horse shows a reversal of form or does not race near its own capabilities. Such horse shall 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 judges may put any horse on the Judges' List for being noncompetitive or unfit to race at the race meeting.
- (f) The judges may place a horse on the Judges' List when there exists a question as to the exact identification, ownership or management of said horse.
- (g) A horse on the Judges' List shall be refused declaration and/or entry until, in the opinion of the judges, the issue that caused it to be placed on the list has been resolved. Only the judges may remove a horse from the Judges' List.

### **3.13: Licensee: Duties, Obligations, etc.**

The following sections 1-25 are effective until January 1, 2016:

(1) No person younger than 16 years old shall be employed in or about the track of any association, except as may be permitted by the applicable laws of the Commonwealth of Massachusetts.

(2) It shall be the duty of each and every licensee of the Commission and the officers, officials and employees of said licensee to observe and enforce 205 CMR 3.00. Every license to hold a harness horse racing meeting is granted upon the condition that licensee therein named shall accept, observe and enforce 205 CMR 3.00.

(3) Each Association licensed by the Commission shall submit to the Commission a complete list of employees ten days after the first racing day. This must contain in addition to the names and addresses of employees, the position each one is to fill or the duties he or she is to perform. All additions named to or changes in the list of employees must be promptly reported to the Commission.

(4) The Commission shall require each Association to obtain from every person employed by them a sworn statement, on a form prescribed by the Commission, setting forth information regarding citizenship, place or places of residence during the past two years and answer to any other questions the Commission may prescribe.

(5) Each Association shall provide and equip a first aid room within its enclosure.

(6) Each Association running a racing meeting shall keep a separate bank account to be known as the "Horsemen's Account" with at all times sufficient funds in such account to cover all monies

due horsemen in regard to purses, stakes, rewards and deposits. Withdrawals from this account shall be only for such purposes and said account shall at all times be subject to audit by the Commission.

(7) Members of the Commission and its representatives shall have the right to full and complete entry to any and all points of the grounds of the Associations licensed to conduct harness horse racing in Massachusetts.

(8) Each Association conducting racing shall before publishing submit to the Commission, the conditions for all races it proposes to hold, together with the stake, purse or reward, all of which shall be subject to the approval of the Commission.

(9) Each Association shall install at the finish line at their track, and shall adequately maintain, two photo finish cameras, to be approved by the Commission, to automatically photograph the finish of races. The official photographer shall furnish promptly to the Commission a print of every photo finish.

(10) Each Association shall install and maintain an adequate photo patrol system approved by the Commission.

(11) Each Association shall provide that no person shall be admitted to the stable area unless he or she is wearing an identification badge issued to him or her by the Commission. Each person whose duties or occupation requires his or her presence in the stable area shall wear his or her identification badge in view at all times.

(a) Each Association shall provide that each person whose presence in the Paddock Area or Testing Area is permitted by 205 CMR 3.00 shall be required to wear his or her identification badge in plain view at all times while in the Paddock and Test Area.

(b) The Commission will hold the Association in strict accountability for full compliance with the provisions of 205 CMR 3.13(11).

(12) No Association shall permit on its grounds any betting or other operations in contravention of any law of the Commonwealth of Massachusetts or of the United States.

(13) No Association shall permit bets to be made on the grounds on any race run outside said grounds except for simulcasts authorized and approved by the Gaming Commission.

(14) No gambling device, other than permitted by law, shall be permitted on the grounds. Petty games of chance are prohibited.

(15) During the term of disqualification of any participant of racing, it shall be the duty of the Association to see to it that the privileges of his or her admission badge are revoked, and that he or she is kept out of the grounds unless otherwise permitted to enter under certain conditions and at certain times as may be provided for elsewhere in 205 CMR 3.00.

(16) Each Association shall furnish to the Commission the names and addresses of all persons ejected by the Association from its grounds, together with the offense or offenses alleged against them, and any other material information relating thereto.

(17) Any person ejected from the grounds of an Association shall be denied admission to said grounds until written permission for his or her re entering has been obtained from the licensee Association and written notification of such permission shall forthwith be filed with the Commission.

(18) A person ejected from the grounds of an Association licensed by the Commission shall be refused admission to the grounds of all other licensed Associations in Massachusetts until he or she has been permitted to re enter the track where he or she was originally ejected in accordance with the procedure provided for in 205 CMR 3.13(17).

(19) Purse Money shall not be paid to the winners thereof earlier than 48 hours following their winning.

(20) No percentage of winnings shall be deducted by an Association for another person, club, or body, unless at the request of the person to whom such winnings are payable and except that an Association may withhold from winnings any money due it.

(21) Each Association shall provide within its grounds an office for the use and to be at the disposal of the Commission and all its officials.

(22) The acceptance by an Association of so called "come back money" or other wager placed outside the enclosure of said Association is strictly prohibited. No Association shall aid or abet the acceptance of such wagers or make any special provision within or without the enclosure for the acceptance of such wagers or for the encouragement of such method of wagering. An Association shall not set up or permit the establishment of any agency within the enclosure for the receipt of wagers made outside the enclosure.

(23) If the Pari mutuel Manager is to be absent from the track for a complete racing program, the Association shall inform the Commission's Chief Pari-Mutuel Officer at the track at least ½ hour before post time of the first race of the name of the person who will perform the duties of the Pari mutuel Manager during his or her absence.

(24) Every employee of the Mutuel Department, who by nature of his or her employment comes in contact with patrons, shall be designated by name or number, that easy identification may be made by the public.

(25) No minor shall be allowed to place or collect a wager and every employee of the Mutuel Department shall be so instructed by the Association.

The following sections 1-4 are effective starting January 1, 2016. For regulations effective until January 1, 2016 see above sections 1-25:

(1) General Duty



- (a) An association, its officers, directors, officials and employees shall abide by and enforce the Act and the rules and orders of the Commission and judges.
- (b) An association 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 association's proposal substantially satisfies the purpose of the requirement; and
  - 2. the exemption is in the best interests of the race horses, the racing industry and the citizens of this jurisdiction.

## (2) Financial Requirements

### (a) Insurer of the Race Meeting

- 1. Approval of a race meeting by the Commission does not establish the Commission as the insurer or guarantor of the safety or physical condition of the association's facilities or purse of any race.
- 2. An association shall agree to indemnify, save and hold harmless the Commission from any liability, if any, arising from unsafe conditions of association grounds and default in payment of purses.
- 3. An association shall provide the Commission with a certificate of liability insurance as required by the Commission.
- 4. An association shall maintain in an approved depository, those amounts deducted from the pari-mutuel handle for distribution for the purposes specified in the Act and Commission rules.
- 5. An association and its managing officers are jointly and severally responsible to ensure that the amounts retained from the pari-mutuel handle are distributed according to the Act and Commission rules and not otherwise.
- 6. An association and its managing officers shall ensure that all purse monies, disbursements and appropriate nomination race monies are available to make timely distribution in accordance with the Act, Commission rules, association rules and race conditions.

### (b) Bond Requirements

- 1. An association shall file with the Commission a bond payable in an amount determined by the Commission for pari-mutuel racing not to exceed the financial liability of the association permit throughout the race meeting for which the association permit is requested.
- 2. The bond shall be executed by the applicant and a surety company or companies authorized to do business in this jurisdiction, and conditioned upon the payment by the association licensee of all taxes and other monies due and payable pursuant to statutory provisions and all monies due from horsemen's accounts and payable, presentation of winning tickets, the licensee will distribute all sums due to the patrons of pari-mutuel pools.
- 3. The financial liabilities incurred by the association licensee in the form of real estate mortgages shall not be included in the determination of the bond amount.

(c) Financial Reports

1. The Commission may require periodic audits to determine that the association has funds available to meet those distributions for the purposes required by the Act, Commission rules, the conditions and nomination race program of the race meeting and the obligations incurred in the daily operation of the race meeting.
2. An association shall file a copy of all tax returns, a balance sheet and a profit and loss statement.
3. An association shall file with the Commission an unaudited balance sheet and profit and loss statement as required by the Commission. Those submissions must be in a format which conforms with the requirements set out in the association license application.
4. An association shall file an annual audit with the Commission within 90 days after the association's fiscal year-end. The Commission, upon good cause shown, may extend the time for filing.

(3) Facilities and Equipment

(a) Facilities for Patrons and Licensees

1. An association 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 law.
2. An association shall provide and maintain adequate restroom facilities for the patrons and licensees.
3. An association shall provide an adequate supply of free drinking water.
4. An association shall maintain all facilities on association grounds to ensure the safety and cleanliness of the facilities at all times.
5. The association shall provide a first aid facility that complies with Occupational Safety and Health Administration standards, be regularly serviced, inspected and updated, and include the following minimum features:
  - (a) Treatment capabilities to stabilize a driver physically and medically and monitor the driver's vital signs until the driver can be transported to an emergency care facility; and
  - (b) HIPAA-compliant, detailed standards of care for drivers.
6. An association shall provide a properly equipped to transport ambulance, staffed with at least one certified paramedic during racing hours. If the ambulance is being used to transport an individual, the association may not conduct a race until the ambulance is replaced.
7. An association shall provide mandatory orientation of racing emergency procedures for all emergency response personnel employed by or assigned as a result of a contract to the association grounds.
8. The ambulance must be parked at an entrance to the racing strip except when the ambulance is being used to transport an individual.

9. An association shall provide adequate office space for the use of the judges 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.
10. An association shall promptly post Commission notices in places that can be easily viewed by patrons and licensees.

(b) Officials' Stands

An association shall provide adequate stands for officials to have a clear view of the racetrack. The location and design of the stands must be approved by the Commission.

(c) Audio and Visual Equipment

1. An association shall provide and maintain in good working order a communication system between the:
  - a. judges;
  - b. racing office;
  - c. mutuels;
  - d. tote room;
  - e. paddock;
  - f. test barn;
  - g. starting gate;
  - h. video control room;
  - i. clocker/timer;
  - j. placing and patrol judges;
  - k. human ambulance(s)
  - l. equine ambulance(s);
  - m. veterinarian(s);
  - n. outrider or marshall;
  - o. track announcer;
  - p. track superintendent;
  - q. racing operations management;
  - r. security operations; and
  - s. other locations and persons designated by the Commission.
2. An association shall provide and maintain a public address system capable of clearly transmitting announcements to the patrons and to the stable area.
3. An association shall provide two computerized video photofinish devices with mirror image to provide a computer-generated image of 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 photofinish devices must be approved by the Commission before their first use in a race. The association shall provide monitors for the display of the photofinish image in both the placing judges' and the judges' stand. The association shall promptly post a computer-generated image of each photofinish for win, place or show



in an area accessible to the public. On request by the Commission, the association shall provide, without cost, a print of a photofinish to the Commission. The association shall ensure that the computerized video photofinish devices are calibrated before the first day of each race meeting and at other times as required by the Commission. Photofinish records of each race shall be maintained by the association for not less than two years after the end of the race meeting, or such other period as may be requested by the judges or the Commission.

4. An association shall provide a videorecording 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.
5. The judges may, at their discretion, direct the video camera operators to record the activities of any horses or persons handling horses prior to, during or following a race.
6. Races must be recorded by at least three video cameras.
7. An association shall, upon request, provide to the Commission, without cost, a copy of a video recording of a race.
8. Video recorded prior to, during and following each race shall be maintained by the association for not less than two years after the end of the race meeting, or such other period as may be requested by the judges or the Commission.
9. An association shall provide a viewing room in which, on approval by the judges, an owner, trainer, driver or other interested individual may view a video recording of a race.
10. Following any race in which there is an inquiry or objection, the association shall display to the public on designated monitors the video replays of the incident in question which were utilized by the judges in making their decision.

(d) Racetrack

1. The surface of a racetrack, including the cushion, subsurface and base, must be designed, constructed and maintained to provide for the safety of the drivers and horses.
2. Prior to the first race meeting at an association racetrack, a licensed surveyor shall provide to the Commission for approval a certified report of the grade and measurement of the distances to be run.
3. Distances shall be measured from the starting line at a distance three feet out from the inside rail.
4. Should any substantial changes be made to the configuration of the racetrack, a new surveyor's report must be provided to the Commission for approval prior to the resumption of racing on the reconfigured surface.
5. An association shall provide an adequate drainage system for the racetrack.

6. An association shall provide adequate equipment and personnel to maintain all track surfaces in a safe training and racing condition.

(e) Starting Gates

During racing hours, an association shall provide at least two operable starting gates which have been approved by the Commission.

(f) Distance Markers

1. An association shall provide starting point markers and distance poles in a size and position that is clearly seen from the judges' stand.
2. All poles and markers shall be positioned at least ten feet off the inside rail or other fixed marker.
3. The fair start pole shall be located 320 feet before the starting point.

(g) Lighting

1. An association 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 video recording and photofinish equipment must be approved by the Commission.
2. An association shall provide adequate additional lighting in the stable area as required by the Commission.
3. If an association 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.

(h) Equine Ambulance

1. An association shall provide an equine ambulance staffed by trained personnel on association grounds on each day that the racetrack is open for racing or training.
2. The equine ambulance, its supplies and attendants and the operating procedures for the equine ambulance must be approved by the official veterinarian.
3. The ambulance must be properly ventilated and kept at an entrance to the racing strip when not in use.
4. The ambulance must be a covered vehicle that is low to the ground and large enough to accommodate a horse in distress. The ambulance must be able to:
  - a. navigate on the racetrack during all weather conditions; and
  - b. transport a horse off the association grounds.
5. The ambulance must be equipped with:
  - a. large, portable screens to shield a horse from public view;
  - b. ramps to facilitate loading a horse;
  - c. adequate means of loading a horse that is down;
  - d. a rear door and a side door;
  - e. a padded interior;
  - f. a movable partition to initially provide more room to load a horse and to later restrict a horse's movement;

- g. a shielded area for the person who is attending to the horse; and
  - h. an adequate area for the storage of water and veterinary drugs and equipment.
6. An association may not conduct a race unless an equine ambulance or an official veterinarian-approved substitute is readily available.

(i) Barns

1. An association shall provide barns containing a sufficient number of stalls to accommodate all horses entered to race on a given race day and all other horses approved to be on the grounds. The association's stable area configuration and facilities must be approved by the Commission.
2. An association 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.
3. An association shall ensure that each horse is stabled in an individual box stall with minimum dimensions of 9 by 10 feet.
4. An association shall provide an adequate area for the placement of manure removed from the stalls. Unless otherwise approved by the Commission, all manure must be removed from the stable area daily. The association shall ensure that refuse from the stalls and other refuse are kept separate.

(j) Test Barn

- (a) An association shall provide a test barn for taking specimens of urine, blood or other bodily substances or tissues from horses selected for testing.
  - (b) The test barn, its supplies and attendants and the operating procedures must be approved by the official veterinarian.
3. The test barn must be equipped with:
- a. a walking area that is large enough to accommodate 6 horses;
  - b. at least 4 enclosed stalls that permit observation of the collection process and provide for the protection of collection personnel;
  - c. facilities and equipment for the collection, identification and storage of samples;
  - d. a minimum of two washracks with hot and cold running water; and
  - e. clean water buckets for each horse.
4. An association shall limit access to the test barn to persons authorized by the official veterinarian. All entrances shall be locked or guarded at all times.

(k) Isolation Area

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

- (l) An association shall ensure that a private veterinarian is on-premises from at least 4 and ½ hours prior to post time until at least ½ an hour after final post time.

#### (4) Operations

##### (a) Security

1. An association conducting a race meeting shall maintain security controls over its grounds. Security controls are subject to the approval of the Commission.
2. An association may establish a system or method of issuing credentials or passes to restrict access to its restricted areas or to ensure that all participants at its race meeting are licensed as required by these rules.
3. An association shall prevent access to and shall remove or cause to be removed from its restricted areas any person who is unlicensed, or who has not been issued a visitor's pass or other identifying credential, or whose presence in such restricted area is unauthorized.
4. During all times that horses are stabled on the grounds, an association shall provide continuous security in the stable area. An association shall require any person entering the stable area to display valid credentials issued by the Commission or a visitor's pass issued by the association. An association shall provide security fencing around the stable area in a manner that is approved by the Commission.
5. During all times that horses are stabled on the grounds, the chief of security for an association or his or her designee shall deliver a written daily report to the Judges' office regarding occurrences on association grounds requiring the attention of security personnel. The report must include the circumstances of the incident, the name of each individual involved, if known, and the resolution or recommended follow-up action, if any.

##### (b) Fire Prevention

1. An association shall develop and implement a program for fire prevention on association grounds. An association shall instruct employees working on association grounds of the procedures for fire prevention.
2. Not later than 5 days before the first day of a race meeting, an association shall deliver to the Commission a copy of the state or local fire marshal's certification regarding the association's compliance with fire safety regulations or the fire marshal's plan of corrections. The certification or plan must be based on an inspection of the association grounds conducted by the fire marshal not more than 30 days before the first day of a race meeting.
3. No person shall:
  - a. smoke in stalls, feed rooms or under shed rows;
  - b. burn open fires or oil and gas lamps in the stable area;
  - c. leave unattended any electrical appliance that is plugged-in to an electrical outlet.
  - d. permit horses to come within reach of electrical outlets or cords;
  - e. store flammable materials such as cleaning fluids or solvents in the stable area; or

f. lock a stall which is occupied by a horse.

4. An association shall post a notice in the stable area which lists the prohibitions outlined in 205 CMR 3.13(4)(b)(3).

(c) Insect and Rodent Control

An association and the licensees occupying the association's barn area shall cooperate in procedures to control insects, rodents or other hazards to horses or licensees.

(d) Performances

The hours of racing, the number of races per race day and the post time for the first race of each race day are subject to the approval of the Commission.

(e) Complaints

1. An association shall designate a location and provide personnel who shall be readily available to the public to provide or receive information.
2. An association shall promptly notify the Commission of a complaint regarding:
  - a. an alleged violation of law or a rule of the Commission;
  - b. an alleged violation of ordinances or statutes;
  - c. accidents or injuries; or
  - d. unsafe or unsanitary conditions for patrons, licensees or horses.
3. An association shall display and support a toll-free, anonymous tip line in both English and Spanish in one or more of the following locations: track kitchen, each barn in the stabling area and the receiving barn, as well as in the overnight sheets and the condition book.

(f) Ejection and Exclusion

1. An association shall immediately eject from the association grounds a person who is subject to such an exclusion order of the Commission or judges and notify the Commission of the ejection.
2. An association may eject or exclude a person for any lawful reason. An association shall immediately notify the judges and the Commission in writing of any person ejected or excluded by the association and the reasons for the ejection or exclusion.

(g) Access to records

The commission, or its duly authorized representatives, shall at reasonable times have access to the records and books of any licensee for the purpose of examining and checking the same, including, but not limited to reports relative to: pari-mutuel wagering activity, racing office activities, the activities of racing officials during the course of their official duties, third-party pari-mutuel service providers/vendors, purse accounts, and horsemen's bookkeeper reports.

(h) Reporting of Wagering Anomalies.

1. Each racing licensee shall notify the Massachusetts Gaming Commission of any documents filed with, or any communication, report or investigation conducted by,



- the Thoroughbred Racing Protective Bureau (TRPB) or any state or federal regulatory agency that relates to the safety, integrity or security of the racing licensee, and its participants, or that would reasonably be deemed to affect public confidence in the racing licensee. Each racing licensee shall further send a copy of any TRPB or governmental communications, correspondence or reports relating to any such report or investigation to the Commission.
2. Each racing licensee shall promptly conduct an investigation of any and all suspected wagering anomalies related to racing conducted at its facility or related to a race imported to its facility for simulcast wagering, even if the licensee has not filed a report with an outside agency. If, after conducting its investigation, the racing licensee reasonably suspects that a wagering anomaly may have occurred, it shall notify the Massachusetts Gaming Commission, and shall promptly provide transactional data and video of the race to the Commission where reasonably requested.
  3. Wagering anomalies include, but are not limited to, incidents such as:
    - a. Alleged past posting, cancel delay and other instances when wagering occurs after the horses have left the gate;
    - b. Off-shore or account wagering fraud;
    - c. Odds manipulation;
    - d. Manual merges;
    - e. Removal of an outlet from a wagering pool; or
    - f. Any other incident that might reasonably affect the public's confidence in the racing licensee's wagering pools including totalisator and data communications malfunctions.
  4. All notices required to be given to the Massachusetts Gaming Commission under 205 CMR 3.13 shall be emailed or faxed to the Director of Racing, Chief Commission Judge, and Chief Pari-Mutuel Officer promptly and in no event later than 48 hours of the event triggering the notice requirement.

(i) Responsible Gambling

As a condition of licensure an association shall implement a problem gambling program as approved by the Commission.

(j) Posting of Driver Insurance Coverage

1. An association shall have on file with the commission a copy of the actual policy and post in the drivers' quarters a summary of the association's insurance coverage for drivers who are injured while on the grounds of the association and shall, upon the request of any licensed driver who is participating in the race meeting, provide a copy of the policy of such insurance. Such request shall be made in writing to a racing official designated by the association in the notice to respond to such requests.

2. In the event that the insurance policy is changed during the race meeting the association shall promptly notify the commission and post a notice of any such changes.

### **3.14: Licenses, Registrations and Fees for Participants in Racing (Repealed)**

~~(1) The following persons shall be required to take out a license from the Commission, and pay the current applicable annual fee: Driver, Trainer, Owner, Authorized Agent, Stable Employees, Veterinarian, Blacksmith, Vendors and Racing Officials.~~

~~(2) The fee shall accompany each application for license or registration. They expire December 31 of the year of issue, except stable employees whose license expire on March 31.~~

~~(3) All applications for license and registrations to participate in racing shall be made to the Commission on forms supplied by the Commission. Any person making any false or misleading statements on an application for license or registration may be denied such a license or registration or may be assessed a fine, suspension or both. If already in possession of a license, said license may be revoked.~~

~~(4) Such application shall be submitted first to the Judges. In considering each application for a license the Judges may require the applicant, as well as his or her endorsers, to appear before them and show that said applicant is qualified in every respect to receive the license requested. Ability as well as integrity must be clearly shown by the applicant in order to receive the Judges' recommendation for the granting of the license.~~

~~(5) Before recommending any application for a license it shall be the duty of the Judges, individually and collectively, to ascertain if the applicant is qualified as to ability, integrity and right to the license applied for. And further, no application for a license shall be recommended by the Judges if the applicant's previous conduct in Massachusetts or elsewhere is considered to have been objectionable, obnoxious or detrimental to the best interest of racing.~~

~~(6) No application for a license or registration shall be recommended by the Judges and no license or registration will be issued by the Commission unless satisfactory evidence first is presented to the Judges that the person so applying will participate in the meeting over which the Judges have supervision.~~

~~(7) The Commission may refuse to license any applicant who has been refused a license by any other State Gaming or Racing Commission, the United States Trotting Association or turf governing body.~~

~~(8) The Commission may refuse to license any applicant whose previous conduct in Massachusetts or elsewhere in connection with horse racing is considered by the Commission to have been objectionable, obnoxious or detrimental to the best interest of racing.~~

~~(9) The Commission may also revoke any license if the holder of the same has violated any rule or regulation of the Commission governing his or her conduct in connection with horse racing, or where such conduct is objectionable, obnoxious or detrimental to the best interest of racing.~~

~~(10) All licenses granted shall be subject to the conditions set forth in the application therefor and the Commission shall have full discretion to suspend or revoke the same for any infraction of the conditions of the application of license and 205 CMR 3.00.~~

~~(11) No owner, trainer or agent shall start a horse unless all licenses and registrations required by 205 CMR 3.14(1) have been filed. Violators of 205 CMR 3.14(11) may be subject to suspension or a forfeiture.~~

~~(12) No application, except a license for ownership, will be considered for or granted to a person under 16 years of age. If younger than 18 years of age, an applicant for an owner's license shall submit a notarized affidavit from his or her 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 within the Commonwealth of Massachusetts.~~

~~(13) When an ownership is in the name of both husband and wife, both shall be licensed.~~

~~(14) Temporary Owner Licenses may be issued to Trainers acting as agents for their owners or to authorized agents representing their owners. Temporary licenses will be valid for a period of 30 days from date of approval. Every Temporary Owner's License must be followed by an application from the owner received by the Gaming Commission prior to the expiration of the 30 day Temporary Owner's License. Failure to do so will result in an imposition by the Judges of a fine against the trainer or authorized agent. No horse will be allowed to race after the expiration of the Temporary Owner's License until a permanent owner's license is granted.~~

### **3.15: Owners**

~~(1) Each owner holding a beneficial interest of 20% or more in a horse must obtain a license from the Commission. If the owners are husband and wife and their total beneficial interest is 20% or more in a horse, then they must each obtain a license from the Commission.~~

~~(2) An owner shall not enter or start a horse that:~~

~~(a) is not in serviceably sound racing condition;~~

~~(b) has been trachea tubed;~~

~~(c) has been nerved at or above the ankle;~~

~~(d) has been nerved or had cryosurgery performed on a nerve, except that horses that have had a neurectomy or cryosurgery performed on the posterior digital nerve below, and not at, the fetlock of one or more feet may be permitted to race;~~

~~(e) is blind or whose vision is seriously impaired in both eyes. A horse blind in one eye may start only if the other eye has normal vision.~~

~~(f) does not comply with M.G.L. c.129 section 44 and 330 CMR 16.05.~~



~~(3) If an owner changes trainers, he or she must notify the Racing Secretary and the Judges and in no instance shall an owner have more than one trainer on the grounds of the Association without the approval of the Board of Judges.~~

~~(4) No owner shall accept, directly or indirectly, any bribe, gift or gratuity in any form that might influence the result of any race, or tend to do so.~~

~~(5) No owner shall move or permit to be moved any of his or her horses from the grounds of an Association without written permission of the Association.~~

~~(6) The owner and/or trainer shall see to it that a report is made promptly to the Judges and/or the Official Veterinarian of any and all sickness of his or her horses that have been declared to race.~~

~~(7) No stable may have in its employment in any capacity any employee under 16 years of age, except as may be permitted by the applicable laws of the Commonwealth of Massachusetts.~~

~~(8) The owner thereof shall register the personnel of every stable and changes with the Association on whose track their horses are racing or stabled, and shall be available at all times to representatives of the Commission.~~

#### (1) Licensing Requirements for Owners

- (a) Each person who has a five percent 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 judges of a change in trainer. A horse shall not be transferred to a new trainer after entry.
- (c) The provisions of 205 CMR 3.14(3), 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 his/her 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) If the Commission or its designee has reason to doubt the financial responsibility of an applicant for an owner's license, the applicant may be required to complete a verified financial statement.
- (e) Each licensed owner is responsible for disclosure to the Commission or its designee of the true and entire ownership of each of his/her 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 judges. Each owner shall comply with all licensing requirements.
- (f) 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 there is a showing on the part of the applicant or licensed owner, and the Commission determines that participation in racing will not permit a

person to serve as a substitute for an ineligible person. The transfer of a horse to circumvent the intent of a Commission rule or ruling is prohibited.

## (2) 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 205 CMR 3.15.
- (b) Each partnership, corporation, limited liability company, syndicate or other association or entity shall disclose to the Commission all owners holding a five percent 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 five percent ownership or beneficial interest shall file with the Commission an affidavit which attests that, to the best of their knowledge, every owner, regardless of their ownership or beneficial interest, is not presently ineligible for licensing or suspended in any racing jurisdiction.
- (d) To obtain an owner's license, an owner with less than a five percent ownership or beneficial interest in a horse shall establish a bona fide need for the license and the issuance of such license shall be approved by the judges.
- (e) Application for joint ownership shall include a designation of a managing owner and a business address. Receipt of any correspondence, notice or order at such address shall constitute official notice to all persons involved in the ownership of such horse.
- (f) The written appointment of a managing owner or authorized agent shall be filed with the breed registry and the Commission.

## (3) Lease Agreements

A horse may be raced under lease provided the lease is in a form acceptable to the Commission and the lease is filed with the Commission and the breed registry. The lessor and lessee shall be licensed as horse owners.

## (4) Stable Name Registration

Licensed owners and lessees may adopt a stable name subject to approval of the Commission.

- (a) The applicant shall identify all persons using the stable name. Changes shall be reported immediately to the Commission and a copy sent to the breed registry.
- (b) A person who has registered a stable name may cancel it upon written notice to the Commission.
- (c) The stable name shall be published in the program.
- (d) If there are more than four owners of a horse, the licensed owners must register as a stable name.

## (5) Temporary Owner Licenses

Temporary Owner Licenses may be issued to Trainers acting as agents for their owners or to authorized agents representing their owners. Temporary licenses will be valid for a period of 10 days from date of approval. Every Temporary Owner's License must be followed by an application from the owner received by the Gaming Commission prior to the expiration of the 10-day Temporary Owner's License. Failure to do so will result in an imposition by the

Judges of a fine against the trainer or authorized agent. No horse will be allowed to race after the expiration of the Temporary Owner's License until a permanent owner's license is granted.

### **3.16: Paddock Judge**

~~(1) It shall be the duty of the Paddock Judge to check all contestants for each and every race and to have all horses properly identified.~~

~~(2) The Paddock Judge shall keep a record of all equipment carried by all horses in all races under the jurisdiction, permitting no change in equipment not authorized by the Judges.~~

~~(3) The Paddock Judge shall bar all unauthorized persons from the Paddock Area.~~

~~(4) The Paddock Judge shall report any irregularities to the Judges.~~

#### **(1) General Authority**

The paddock judge shall be responsible for and not limited to:

- (a) ensuring that the horses are on the racetrack for post parades in accordance with the schedule issued by the judges;
- (b) inspecting of horses for changes of equipment, broken or faulty equipment, proper saddle pads, and head numbers;
- (c) supervising of paddock gate operators;
- (d) proper checking-in and checking-out of horses and drivers;
- (e) directing of the activities of the paddock horseshoer; and
- (f) ensuring that only properly authorized persons are permitted in the paddock.

#### **(2) Report to the Judges**

The paddock judge shall notify the judges of anything that:

- (a) could in any way change, delay or otherwise affect the racing program; and
- (b) any other perceived violations of these rules.

### **3.17: Patrol Judges**

The Patrol Judges shall for each race take their stations at a place designated by the Judges. They shall be subject to the orders of the Judges, and shall duly report to them all of their pertinent observations in each and every race and shall file reports on it in writing if so requested by the Judges.

### **3.18: Racing and Operating Officials**

~~(1) Officials of a race meeting are as follows: Three Judges; Judge at the Start; Starter; Patrol Judges; Timer; Paddock Judge; Clerk of Course; Racing Secretary; Assistant Racing Secretary;~~

Veterinarian; Mutuel Manager; Program Director; Placing Judges; Identifier; Marshall; and such other persons as the Commission may designate from time to time because of their importance in the actual conduct of racing.

~~(2) The Commission shall appoint two of the Judges.~~

~~(3) All other officials designated in 205 CMR 3.18(1) shall be appointed by the Association holding the meeting and licensed by the Commission, all appointments being subject to the approval of the Commission, which reserves the right to demand a change of personnel for what it deems good and sufficient reasons, the successor to official so replaced to be subject to the approval of the Commission.~~

~~(4) No one interested in the result of a race, either because of ownership of any horse entered or of his or her sire or dam, or because of bets or otherwise, shall act as a racing official in respect to that race.~~

~~(5) No racing official or his or her assistants shall wager money or any other chattel of value on the result of any race at the meeting.~~

~~(6) No racing official or his or her assistants shall accept directly or indirectly, any gratuity, reward or favor in connection with racing at the meeting.~~

~~(7) Racing officials, as designated in 205 CMR 3.18(1) and their Assistants, shall not directly or indirectly, for a commission or gratuity or otherwise, sell or buy at private sale for himself or herself or another any Standardbred horse, for the duration of the meeting; nor shall he or she solicit or have any interest in any business or endeavor which is peculiarly incidental to harness racing at the meeting at which he or she officiates; nor shall he or she write or solicit horse insurance for the duration of the meeting.~~

~~(8) Each racing official and his or her assistants shall report to the Judges all observed violations of 205 CMR 3.00.~~

~~(9) The Commission, may, at its discretion, require an eye test of any Judge or Patrol Judge, said test to be given by an agreed licensed optometrist. The test shall include particularly distance and color.~~

## **(1) Racing Officials**

**Racing Officials at a race meeting include the following:**

- (a) board of judges;**
- (b) racing secretary;**
- (c) paddock judge;**
- (d) horse identifier;**
- (e) clerk of the course;**
- (f) starter;**



- (g) charter;
- (h) timer;
- (i) patrol judge, absent video replay equipment;
- (j) program director;
- (k) official veterinarian;
- (l) racing veterinarian;
- (m) outrider/marshall; and
- (n) any other person designated by the Commission.

(2) Operating Officials at a race meeting include the following:

- (a) Director of Racing;
- (b) Director of Security or Surveillance;
- (c) Director of Pari-Mutuels;
- (d) Director of Simulcast Operations;
- (e) Director of Money Room Operations;
- (f) Track Superintendent; or
- (g) any other person so designated by the Commission who has the ability to direct, manage, or control racing operations or who supervises racing officials in the course of their official duties.

(3) Prohibited Practices

Racing officials and their assistants and operating officials shall not engage in any of the following activities while serving in an official capacity at a race meeting:

- (a) accept directly or indirectly, any gratuity, reward or favor in connection with racing at the meeting;
- (b) participate in the sale or purchase, or own or lease any horse racing at the meeting, regardless of percentage or terms;
- (c) sell or solicit horse insurance, equipment, feed, products and/or any services or materials intended for use or used on any horse racing at the race meeting;
- (d) be licensed in any other capacity without permission of the Commission; or
- (e) directly or indirectly wager on the outcome of any race under the jurisdiction of the Commission or, on a race day when he or she is acting in his or her official capacity, at any facility under the jurisdiction of the Commission.

(4) Report of Violations

Racing officials and their assistants and operating officials shall report immediately to the judges any violation of these rules and of the laws of this jurisdiction governing racing.

(5) Observations and Notifications

- (a) Any racing official shall report to the judges as soon as possible any violation of these rules and issues with a horse based on the condition prior to the race which may significantly affect the running of the race
- (b) Upon notification to the judges, they shall conduct an immediate investigation.

(6) Complaints Against Officials

- (a) Complaints against any judge shall be made in writing to the Commission and signed by the complainant.
- (b) Any complaint against a racing or operating official other than a judge shall be made to the judges in writing and signed by the complainant. All such complaints shall be reported to the Commission by the judges, together with a report of the action taken or the recommendation of the judges.
- (c) A racing official may be held responsible by the judges or the Commission for the actions of their assistants.

(7) Appointment of Substitute Officials

Where a vacancy exists among racing officials, the judges or the association, with the judges' approval, shall appoint a person to fill the vacancy immediately. Such appointment shall be reported to the Commission and shall be effective until the vacancy is filled in accordance with these rules.

(8) Appointment of Substitute Judge

Should any judge be absent at race time, the remaining judge(s) shall appoint a deputy for the absent judge(s). If a substitute judge is appointed, the Commission and the association shall be notified immediately by the judges.

**3.19: Urine, Other Tests and Examinations** *(Repealed)*

**3.20: Stable Employees** *(Repealed)*

~~(1) The Commission shall license every person following the vocation of groom or stable foreman.~~

~~(2) Application shall be made on printed forms furnished by and filed with the Commission and be accompanied by the applicable annual fee.~~

**3.21: Trainers**

~~(1) Each trainer must obtain a license from the Commission.~~

~~(2) No trainer shall practice his or her profession except under his or her own name.~~

~~(3) The Judges may permit a trainer to act pending action on his or her applications.~~

- (4) A licensed trainer may represent the owner in the matter of entries and declarations.
- (5) A trainer shall have his or her horse in the paddock at the time appointed.
- (6) A trainer shall attend his or her horse in the paddock, unless he or she has obtained the permission of the Judges.
- (7) The trainer shall be responsible for and be the absolute insurer of the condition of the horses he or she enters regardless of the acts of third parties.
- (8) Each trainer shall register with the Racing Secretary every person in his or her employ.
- (9) A trainer shall not have in charge or under his or her supervision any horse owned, in whole or part by a disqualified person.
- (10) No trainer shall accept, directly or indirectly, any bribe, gift or gratuity in any form that might influence the result of any race or which would tend to do so.
- (11) No trainer shall move or permit to be moved any horse or horses in his or her care from the grounds of an Association without permission from the Association.
- (12) A trainer shall not enter or start a horse that:
- (a) is not in serviceably sound racing condition;
  - (b) has been trachea-tubed;
  - (c) has been nerved at or above the ankle;
  - (d) has been nerved or had cryosurgery performed on a nerve, except that horses that have had a neurectomy or cryosurgery performed on the posterior digital nerve below, and not at, the fetlock of one or more feet may be permitted to race;
  - (e) is blind or whose vision is seriously impaired in both eyes. A horse blind in one eye may start only if the other eye has normal vision.
  - (f) does not comply with M.G.L. c.129 section 44 and 330 CMR 16.05.
- (13) The trainer and/or owner shall see to it that a report is made promptly to the Judges and/or the Official Veterinarian of any and all sickness of his or her horses that have been declared to race.
- (14) Trainers of said horses entered in the first and second races shall inspect the condition of their horse 1½ hours before post time of the first race of the day on which entered to race. If any horse is found, through accident or otherwise, to be unfit to race, the trainer shall report the fact to the Judges one hour before post time of the first race of the day.

### (1) Eligibility

A person shall not train horses, or be programmed as trainer of record at race meetings, without being licensed by the Commission.

## (2) Trainer Responsibility

### (a) Medication Violations

1. The trainer is responsible for the condition of horses entered in an official workout or race and is responsible for the presence of any prohibited drug, medication or other substance, including permitted medication in excess of the maximum allowable level, in such 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.
2. A trainer shall prevent the administration of any drug or medication or other prohibited substance that may cause a violation of these rules.
3. A trainer whose horse has been claimed remains responsible for any violation of rules regarding that horse's participation in the race in which the horse is claimed.

### (b) Other Responsibilities

A trainer is 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, and occupational license number. The Commission shall be notified by the trainer, in writing, within 24 hours of any change;
5. assuring the adequate care, custody, condition, fitness, health, safety, and security of horses under his/her care, custody, and control;
6. disclosure of the true and entire ownership of each horse in the trainer's care, custody or control;
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 association grounds;
9. ensuring that, at the time of arrival at a licensed racetrack, each horse in the trainer's care is accompanied by a valid health certificate which shall be filed with the racing secretary;
10. having each horse in the trainer's care that is racing, or is stabled on association grounds, tested for Equine Infectious Anemia (EIA) in accordance with M.G.L. c.129 and for filing evidence of such negative test results with the racing secretary;



11. using the services of those veterinarians licensed by the Commission to attend horses that are on association grounds;
12. 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 such alteration on the certificate of registration;
13. promptly reporting to the racing secretary and the official veterinarian any horse on which a posterior digital neurectomy (heel nerving) is performed;
14. promptly notifying the official veterinarian of any reportable disease and any unusual incidence of a communicable illness of any horse in the trainer's charge;
15. promptly reporting the death of any horse in the trainer's care on association grounds to the judges and the official veterinarian and compliance with the rules governing post-mortem examinations;
16. maintaining a record to be available to the commission or its designee for at least 6 months of all medication(s) administered to the horse under their care, custody, and control. Records should include, at a minimum, all of the following:
  - a. the name of the horse
  - b. the date of each medication administered
  - c. the name, the dosage, and the route of medication administered
  - d. the name of the Veterinarian, the Licensed Trainer, and/or any designee responsible for administering and prescribing the medication;
17. immediately reporting to the judges and the official veterinarian if the trainer knows, or has cause to believe, that a horse in the trainer's custody, care or control has received any prohibited drugs or medication;
18. representing an owner in making entries and scratches and in all other matters pertaining to racing;
19. horses declared as to eligibility;
20. ensuring the fitness of a horse to perform creditably at the distance declared;
21. ensuring that the trainer's horses are properly prepared and equipped;
22. presenting the horse in the paddock at the time appointed before the race in which the horse has been declared;
23. personally attending to the horse in the paddock and supervising the preparation thereof, unless excused by the judges;
24. attending the collection of a urine or blood sample from the horse or delegating a licensee to do so; and
25. notifying horse owners upon the revocation or suspension of the trainer's license. A trainer whose license has been suspended for more than 15 days, whose license has expired or been revoked, or whose 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 such horses to the care of another licensed trainer, and upon such approved transfer, such horses may be declared to race. Upon transfer of the horse(s), the inactive trainer shall not

be involved in any arrangements related to the care, custody or control of the horse(s) and shall not benefit financially or in any other way from the training of the horse(s).

(3) Restrictions on Wagering

A trainer shall only be allowed to wager on the trainer's horse or entries to win or finish first in combination with other horses.

(4) Substitute Trainers

If any licensed trainer is to be absent from the association grounds where the trainer's horse is programmed to race the judges shall be immediately notified and at that time a licensed substitute trainer, acceptable to the judges, shall be appointed to assume responsibility for the horse(s) racing during the absence of the regular trainer. The name of the substitute trainer shall appear on the program if possible. The original trainer shall be responsible for all horses declared by that trainer and the substitute trainer shall be responsible for all horses declared by the substitute trainer.

**3.22: Veterinarians (Repealed)**

**3.23: Claiming Races**

(1) Who May Claim. An owner and/or lessee of a horse that has been declared and programmed to start in a purse race at that meeting. An authorized agent may claim for a qualified owner. Any member seeking to effect a false claim by inducing another to claim a horse for him or her will be subject to the penalties provided by the Judges.

(2) Prohibitions.

(a) No person shall claim his or her own horse, nor shall he or she claim a horse trained or driven by him or her.

(b) No person shall claim more than one horse in a race.

(c) No qualified owner or his or her agent shall claim a horse for another person.

(d) No owner shall cause his or her horse to be claimed directly or indirectly for his or her own account.

(e) No person shall offer, or enter into an agreement, to claim or not to claim, or attempt to prevent another person from claiming any horse in a claiming race.

(f) No person shall enter a horse against which there is a mortgage, bill of sale, or lien of any kind, unless the written consent of the holder thereof shall be filed with the Clerk of the Course of the Association conducting such a claiming race.

(g) Where a horse drawn to start in a claiming race has been declared to start in a subsequent claiming race, a successful claimant, if any, of the horse in the first race shall have the option of scratching the horse from the subsequent race.

(h) Any mare which has been bred shall not be declared into a claiming race for at least 45 days following the last breeding of the mare, and thereafter such a mare may only be declared into a claiming race after a veterinarian has pronounced the mare not to be in foal. Any mare pronounced in foal shall not be declared into a claiming race.

(3) Claiming Procedure.

(a) Owner's Credit. The owner must have to his or her credit with the track giving the race an

amount equivalent to the specified claiming price plus the requisite fees for transfer of registration.

(b) Owner's Consent. No declaration may be accepted without written permission of the owner if filed with the Racing Secretary at the time of declaration.

(c) On Program. The basic claiming price for which each horse is entered shall be printed on the program, but all claims shall be for the adjusted price after the prescribed allowances made for sex and/or age have been added to the basic price.

(d) Claim Box. All claims shall be in writing, sealed and deposited at least 15 minutes before the time originally scheduled for the race to begin, in a locked box provided for this purpose by the Clerk of Course. Once a claim has been filed it is irrevocable and at the risk of the claimant, unless otherwise provided for in 205 CMR 3.00.

(e) Opening of Claim Box. No official shall open said box or give any information on claims filed until after the race. Immediately after the race, the claim box shall be opened and the claim, if any, examined by the Judges.

(f) Multiple Claims on Same Horse. Should more than one claim be filed for the same horse, the owner shall be determined by lot by the Judges.

(g) Delivery of Claimed Horse. A horse claimed shall be delivered immediately by the original owner or his or her trainer to the successful claimant upon authorization of the Presiding Judge. The horse's halter must accompany the horse. Altering or removing the horse's shoes will be considered a violation of 205 CMR 3.00.

(h) Refusal to Deliver Claimed Horse. Any person who refuses to deliver a horse legally claimed out of a claiming race shall be suspended together with the horse until delivery is made.

(i) Vesting of Title to Claimed Horse. Every horse claimed shall race in all heats or dashes of the event in the interest and for the account of the owner who declared it in the event, but title to the claimed horse shall be vested in the successful claimant from the time the word "go" is given in the first heat or dash, and said successful claimant shall become the owner of the horse, whether it be alive or dead or sound or unsound, or injured during the race or after it, provided however that the final vesting of title to a claimed horse is subject to the conditions and provisions of the applicable U.S.T.A. rules.

(j) Affidavit by Claimant. The Judges shall require any person making a claim for a horse to make affidavit that he or she is claiming said horse for his or her own account or as an authorized agent and not for any other person. Any person making such affidavit willfully and falsely shall be subject to punishment as hereinafter provided.

(k) Penalty for 30 Days. If a horse is claimed, no right, title or interest therein shall be sold or transferred except in a claiming race for a period of 30 days.

(4) Claiming Price. Subject to the conditions of the current applicable U.S.T.A. rules the track shall pay the claiming price to the owner at the time the registration certificate is delivered for presentation to the successful owner.

(5) Claiming Conditions. Except for the lowest claiming price offered at each meeting, conditions and allowances in claiming races may be based only on age and sex. Whenever possible claiming races shall be written to separate horses five years old and up from young horses and to separate males from females. If sexes are mixed, mares shall be given a price allowance, provided, however, that there shall be no price allowance given to a spayed mare racing in a claiming race.

(6) Minimum Price. No claiming race shall be offered permitting claims for less than the minimum purse offered at the time during the same racing week.

(7) Determination of Claiming Price. Except as provided by the United States Trotting Association, no horse owner shall be prohibited from determining the price for which his or her horse shall be entered.

(8) Fraudulent Claims.

(a) If the Judges determine that the declaration of any horse to a claiming race is fraudulent on the part of the declarer, they may void the claim and, at the option of the claimant, order the horse returned to the person declaring it.

(b) If the Judges determine that any claim of a horse is fraudulent on the part of the person making the claim they may void the claim and may, at the option of the person declaring it, return the horse to the person declaring it.

(9) The current Registration Certificate of all horses entered in claiming races must be on file with the Racing Secretary together with a separate claiming authorization form signed by the registered owner or owners 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 provided that he or she then sends the Registration Certificate and claiming authorization to the Registrar for transfer.

(10) Any person violating any of the provisions of 205 CMR 3.23, shall be fined, suspended, or expelled.

(11) Claiming. A person or two or more persons in a partnership or other acceptable form of joint ownership shall be eligible to claim a horse, without racing a horse at the race meeting in progress, by complying with the provisions of the following claiming rules:

(a) Such persons must first register as an Owner with the Massachusetts Gaming Commission and pass all security and financial precautions required by the Commission. Further, any such person must consent to a thorough background check by the State Police Unit attached to the Commission.

(b) Such persons must be representing their own interest only and may not have any undisclosed persons with any interests in the authorized claim.

(c) Such persons must, prior to any such claim, secure the services of a licensed Massachusetts Standardbred horse trainer and such trainer must consent to being so engaged in writing to the Judges at the race meeting for which such claim is authorized. Such consent must be given by that trainer both at the time of authorization and on the authorization card submitted at the time of the claim. Any change in the consent of the trainer to be employed by the prospective owner must be reported to the Judges promptly on the next racing day and a new trainer authorized before a claim can be made.

(d) No such person may claim a horse until all forms and security investigations are completed and approved.

(e) After all forms are approved, the Judges, at the race meetings of commercial race tracks only, will be allowed to issue a claiming authorization card to be submitted in the same envelope as the claim slip in order that the claim be a valid one.

- (f) The Judges will keep on file the names of all such persons authorized to claim, the date in which such privilege is exercised in the making of a claim.
- (g) Such persons will be granted the balance of the calendar year to exercise the claiming privileges. At the end of such time, if unexercised, a new authorization card must be issued by the Judges to allow the privilege to be exercised in the next calendar year.
- (h) A claim must be made and owned in exactly the same name or names authorized by the Judges and cannot be separated if a partnership has been transferred or modified in any way, or such claim will be held invalid.
- (i) Any horse claimed under the provisions of 205 CMR 3.23 must race exclusively in Massachusetts at the track where claimed for 60 days following the date of claim. If racing concludes at the track where the horse is claimed for a period in excess of 30 days and no other Massachusetts track offers comparable claiming or other races suitable for that horse, a release statement may be obtained from the Judges or in their absence the Commission, to allow said horse to race elsewhere prior to the end of the 60 day period.
- (j) Only one horse may be claimed under the provisions of 205 CMR 3.23 except as herein provided. After a horse is claimed, all future eligibility shall mean a horse must be raced to make any additional claims. However, if for reasons of physical impairment, the claimed horse cannot be raced for a six month period and the owner is willing to indicate this in writing to the Judges along with supporting evidence from a veterinarian licensed to practice at that track, the Judges may at their discretion issue a second authorization to claim. No person shall be granted permission under any circumstances to claim more than a second horse without racing a horse and complying with eligibility at the race meet.
- (k) Persons who exercise the privilege of claiming under 205 CMR 3.23 as a member of a partnership or other form of multiple ownership thereby become horse owners and ineligible to exercise the privilege of 205 CMR 3.23 as individuals after that time.
- (l) Any owner(s) who have not raced in the existing meet because they no longer own racing stock due to losing a horse in a claiming race, may be eligible to claim under 205 CMR 3.23.
- (m) The Massachusetts Gaming Commission, or the Judges at the track for which such authorization is granted, may at their discretion, for the protection or general good of racing, revoke the claiming authorization granted under this rule at any time during the eligibility period.

### **3.24: Practicing Veterinarians**

#### **(1) Eligibility**

An applicant for a license as practicing veterinarian shall be qualified and licensed to practice veterinary medicine in this jurisdiction and be otherwise qualified to be issued a license to participate in racing. 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.

#### **(2) Responsibility**

- (a) All practicing veterinarians administering drugs, medications or other substances shall be responsible for ensuring that the drugs, medications or other substances and the veterinary treatment of horses are administered in accordance with rules in 205 CMR 3.00.

- (b) All practicing veterinarians shall promptly notify the official veterinarian of any reportable disease and any unusual incidence of a communicable illness in any horse in his or her charge.
  - (c) All veterinarians shall file individual remittance certificates with individual blood samples when testing for equine infectious anemia. Upon receipt from an approved testing laboratory, the certificates shall be returned to the trainer whose responsibility it shall be to safeguard said certificate and surrender same to a new owner and/or trainer in cases of claims, sales or transfers. All veterinarians shall notify the State Veterinarian immediately upon receipt of a positive report.
- (3) Restrictions
- (a) 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.
  - (b) Veterinarians licensed by the Commission to practice their profession shall not be eligible to hold an owner, trainer, or driver license at tracks under the jurisdiction of the Commission.

### **3.25: Official Veterinarian**

#### **General Authority**

The official veterinarian shall:

- (1) be employed by the Commission;
- (2) be a graduate veterinarian and be licensed to practice in this jurisdiction;
- (3) recommend to the judges any horse deemed unsafe to be raced, or a horse that it would be inhumane to allow to race;
- (4) place horses on the Veterinarian's List, when necessary, and remove horses from the Veterinarian's List;
- (5) place horses on the Furosemide List and remove horses from the Furosemide List;
- (6) maintain a continuing health and racing soundness record of each horse given a racing soundness inspection;
- (7) have the authority to supervise and control the Test Barn;
- (8) supervise the taking of all specimens for testing according to procedures approved by the Commission;
- (9) provide proper safeguards in the handling of all laboratory specimens to prevent tampering, confusion or contamination;
- (10) have authority and jurisdiction over the racing veterinarian and the practicing licensed veterinarians on the association grounds for the purpose of 205 CMR 3.00;
- (11) report to the Commission the names of all horses humanely destroyed or which otherwise expire at the race meeting and the reasons therefore;
- (12) maintain all required records of postmortem necropsy examinations performed on horses which have died on association grounds;

- (13) refrain from directly treating or prescribing for any horse scheduled to participate during the official veterinarian's term of appointment at any recognized race meeting except in cases of emergency, accident or injury;
- (14) 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 official veterinarian for the Commission;
- (15) review and make recommendations regarding Commission license applications of practicing veterinarians;
- (16) cooperate with practicing veterinarians and other regulatory agencies regarding medication issues and to take measures to control communicable and/or reportable equine diseases;
- (17) periodically review all horse papers under the jurisdiction of the Commission to ensure that all required test and health certificates are current and properly filed in accordance with 205 CMR 3.24(2)(c);
- (18) 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; and
- (19) provide the judges with a written statement regarding the nature and seriousness of all laboratory reports of prohibited substances in equine samples.

### **3.26: Racing Veterinarian**

- (1) The racing veterinarian(s) shall be employed by the Association.
- (2) The racing veterinarian shall:
  - (a) be directly responsible to the official veterinarian;
  - (b) be a graduate veterinarian and be licensed to practice in this jurisdiction;
  - (c) be available to the racing secretary and/or judges each racing day at a time designated by the judges, to inspect any horses and report on their condition as may be requested by the judges;
  - (d) inspect any horse when there is a question as to the physical condition of such horse;
  - (e) recommend scratching a horse to the judges if, in the opinion of the racing veterinarian, the horse is physically incapable of exerting its best effort to win;
  - (f) be present in the paddock as required by the official veterinarian;
  - (g) observe each horse in motion during a warm-up mile, during the post parade, during the running of the race, and following the race until the horse has exited the race track;
  - (h) inspect any horse which appears in physical distress during the race or at the finish of the race; and shall report such horse together with the racing veterinarian's opinion as to the cause of the distress to the judges and to the official veterinarian;
  - (i) refrain from directly treating or prescribing for any horse scheduled to participate during racing veterinarian's term of appointment at any recognized race meeting except in cases of emergency, accident or injury;

- (j) 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;
- (k) 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;
- (l) inspect all of the horses in a race prior to their starting and after the finish of a race shall observe the horses upon their leaving the track;
- (m) with approval of the official veterinarian, place horses on the Bleeder List; and
- (n) with approval of the official veterinarian, place horses on or remove them from the Veterinarian's List.

### **3.27: Veterinary Practices**

#### (1) Veterinarians under Authority of Official Veterinarian

Veterinarians licensed by the Commission and practicing at any location under the jurisdiction of the Commission are under the authority of the official veterinarian and the judges. The official veterinarian shall recommend to the judges or the Commission the discipline that may be imposed upon a veterinarian who violates 205 CMR 3.00.

#### (2) Treatment Restrictions

(a) Only licensed trainers, licensed owners, or their designees shall be permitted to authorize veterinary medical treatment of horses under their care, custody and control at locations under the jurisdiction of the Commission.

(b) Except as otherwise provided by 205 CMR 3.27(2), no person other than a veterinarian licensed to practice veterinary medicine in this jurisdiction and licensed by the Commission may administer a prescription or controlled medication, drug, or chemical to a horse at any location under the jurisdiction of the Commission.

(c) 205 CMR 3.27(2) 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 shall possess a hypodermic needle, syringe capable of accepting a needle or injectable of any kind on association grounds, unless otherwise approved by the Commission. At any location under the jurisdiction of the Commission, veterinarians may use only one-time disposable syringe and needle, and shall dispose of both in a manner approved by the Commission. 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 may request permission of the judges and/or the Commission in writing, furnish a letter from a licensed physician



explaining why it is necessary for the person to possess a syringe, and must comply with any conditions and restrictions set by the judges and/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 205 CMR 3.29(6), unless approved by the official veterinarian or his/her designee. Any unauthorized contact may result in the horse being scratched and may result in further disciplinary action by the judges.

(f) Any horse entered for racing must be present on the grounds prior to the scheduled furosemide administration time, or prior to the time prescribed to be present in the race paddock for the race entered.

### (3) Veterinarians' Reports

(a) Every veterinarian licensed by the Massachusetts Gaming Commission shall keep a written record of his or her practice when performed on the premises of a facility under the jurisdiction of the Commission which shall disclose:

1. the name of the horse;
2. the type of treatment prescribed for and medicine administered to the horse;
3. the date of such treatment.

(b) Every licensed Veterinarian shall produce such written records when requested by an official of the Gaming Commission.

### **3.28: Prohibited Practices**

The following are considered prohibited practices:

(1) The possession or use of a drug, substance or medication on the premises of a facility under the jurisdiction of the Commission for which:

- (a) a recognized analytical method has not been developed to detect and confirm the administration of such substance; or
- (b) the use of which may endanger the health and welfare of the horse or endanger the safety of the driver; or
- (c) the use of which may adversely affect the integrity of racing; or,
- (d) no generally accepted use in equine care exists.

~~(2) The possession or use of a drug, substance, or medication on the premises of a facility under the jurisdiction of the Commission that has not been approved by the United States Food and Drug Administration (FDA) for any use in (human or animal) is forbidden without prior permission of the official veterinarian or his or her designee.~~

(3-2) The possession and/or use of the following substances or of blood doping agents, including but not limited to those listed in 205 CMR 3.28(a) through (j), on the premises of a facility under the jurisdiction of the Commission is forbidden:

- (a) Aminoimidazole carboxamide ribonucleotide (AICAR)

- (b) Cobra venom or derivatives thereof
- (c) Darbepoetin
- (d) Equine Growth Hormone
- (e) Erythropoietin (EPO)
- (f) Hemopure
- (g) *myo*-Inositol Tripyrophosphate (ITPP)
- (h) Oxyglobin
- (i) Snail venoms or derivatives thereof
- (j) Thymosin beta

(4-3) The use of Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy shall not be permitted unless the following conditions are met:

- (a) Any treated horse shall not be permitted to race or qualify for a minimum of 10 days following treatment;
- (b) The use of Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy machines shall be limited to veterinarians licensed to practice by the Commission using registered and approved machines;
- (c) Any Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy machines on the association grounds must be registered with and approved by the official veterinarian or his/her designee before use.
- (d) All Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy treatments must be reported within one (1) day to the official veterinarian or his or her designee on the prescribed form. The horse shall be added to a list of ineligible horses.
- (e) Any person participating in the use of ESWT and/or the possession of ESWT machines in violation of 205 CMR 3.28(3) shall be considered to have committed a Prohibited Practice and is subject to a Class A Penalty.

(5-4) The use of a nasogastric tube (a tube longer than six inches) for the administration of any substance within 24 hours prior to the post time of the race in which the horse is entered is prohibited without the prior permission of the official veterinarian or his or her designee.

(5) The possession of a nasogastric tube (a tube longer than six inches) for the administration of any substance to a horse shall be limited to veterinarians licensed to practice by the Commission.

### **3.29: Medications and Prohibited Substances**

#### **(1) Aggravating and Mitigating Factors**

Upon a finding of a violation of 205 CMR 3.27-3.30, inclusive, the judges shall consider the classification level of the violation as listed at the time of the violation in the Uniform Classification Guidelines of Foreign Substances as promulgated by the Association of Racing Commissioners International (ARCI) and impose penalties and disciplinary measures consistent with the recommendations contained therein. The judges shall also consult with the official veterinarian, laboratory director or other individuals to determine the seriousness of the laboratory finding or the medication violation. All medication and drug violations shall be

investigated and reviewed on a case by case basis. Extenuating factors include, but are not limited to:

- (a) The past record of the trainer, veterinarian and owner in drug cases;
- (b) The potential of the drug(s) to influence a horse's racing performance;
- (c) The legal availability of the drug;
- (d) Whether there is reason to believe the responsible party knew of the administration of the drug or intentionally administered the drug;
- (e) The steps taken by the trainer to safeguard the horse;
- (f) The probability of environmental contamination or inadvertent exposure due to human drug use;
- (g) The purse of the race;
- (h) Whether the drug found was one for which the horse was receiving a treatment as determined by the Medication Report Form;
- (i) Whether there was any suspicious betting pattern in the race, and;
- (j) Whether the licensed trainer was acting under the advice of a licensed veterinarian.

As a result of the investigation, there may be mitigating circumstances for which a lesser or no penalty is appropriate for the licensee and aggravating factors, which may increase the penalty beyond the minimum.

(2) Penalties

(a) In issuing penalties against individuals found guilty of medication and drug violations a regulatory distinction shall be made between the detection of therapeutic medications used routinely to treat racehorses and those drugs that have no reason to be found at any concentration in the test sample on race day.

(b) If a licensed veterinarian is administering or prescribing a drug not listed in the ARCI *Uniform Classification Guide lines for Foreign Substances*, the identity of the drug shall be forwarded to the official veterinarian to be forwarded to the Racing Medication and Testing Consortium for classification.

(c) Any drug or metabolite thereof found to be presenting a pre- or post-race sample which is not classified in the version of the ARCI *Uniform Classification Guidelines for Foreign Substances* in effect at the time of the violation shall be assumed to be a ARCI Class 1 Drug and the trainer and owner shall be subject to those penalties as set forth in schedule "A" therein unless satisfactorily demonstrated otherwise by the Racing Medication and Testing Consortium, with a penalty category assigned.

(d) Any licensee of the Commission, including veterinarians, found to be responsible for the improper or intentional administration of any drug resulting in a positive test may, after proper notice and hearing, be subject to the same penalties set forth for the licensed trainer.

(e) Procedures shall be established to ensure that a licensed trainer is not able to benefit financially during the period for which the individual has been suspended. This includes, but is not limited to, ensuring that horses are not transferred to licensed family members.

(f) **Multiple Medication Violations (MMV)**

1. A trainer who receives a penalty for a medication violation based upon a horse testing positive for a Class 1-5 medication with Penalty Class A-D, as provided in the version of the *ARCI Uniform Classification for Foreign Substances* in effect at the time of the violation, shall be assigned points based upon the medication's ARCI Penalty Guideline as follows:

<b>Class</b>	<b>Points If Controlled Therapeutic Substance</b>	<b>Points If Non-Controlled Substance</b>
<b>Class A<sup>1</sup></b>	N/A	6
<b>Class B</b>	2	4
<b>Class C</b>	1	2
<b>Class D</b>	½	1

2. ~~The points assigned to a medication violation shall be included in the Judges' ruling. Such ruling shall determine, in the case of multiple positive tests as described in~~

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<sup>1</sup> Except for Class 1 and 2 environmental contaminants, e.g., cocaine which shall be determined by the Judges based upon the facts of the case.

~~paragraph (4), whether they shall thereafter constitute a single violation. The Judges' ruling shall be posted on the official website of the Association of Racing Commissioners International. If an appeal is pending, that fact shall be noted in such ruling. No points shall be applied until a final adjudication of the enforcement of any such violation.~~

The points assigned to a medication violation by the Judges' or Commission ruling shall be included in the ARCI official database and the ARCI shall assign points consistent with Section (2)(f) for advisory purposes for medication violations where points have not been assigned by regulatory action. Points assigned by such regulatory ruling or by the ARCI shall reflect, in the case of multiple positive tests as described in 205CMR 3.29(2)(f)(4), whether they shall thereafter constitute a single violation. The Judges' or Commission Ruling shall be posted on the official website of the Commission and within the official database of the Association of Racing Commissioners International. If an appeal is pending, that fact shall be noted in such Ruling. No points shall be applied until a final adjudication of the enforcement of any such violation.

3. A trainer's cumulative points for violations in all racing jurisdictions shall be maintained by the Association of Racing Commissioners International. Once all appeals are waived or exhausted, the points shall immediately become part of the trainer's official ARCI record and shall then subject the trainer to the mandatory enhanced penalties by the Judges or Commission as provided in 205 CMR 3.29(2)(f).

4. Multiple positive tests for the same medication incurred by a licensed 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 may treat each substance found as an individual violation for which points will be assigned.**

5. The official ARCI record shall **be used to advise the Judges or Commission of a** ~~constitute prima facie evidence of a licensed~~ trainer's past record of violations and cumulative points. Nothing in 205 CMR 3.29(2)(f) 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.

6. The Judges or Commission shall include all points for violations in all racing jurisdictions as contained in the trainer's official ARCI record when determining whether the mandatory enhancements provided in 205 CMR 3.29(2)(f) shall be imposed.

7. 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:

Points	Suspension in days
3-5.5	30
6-8.5	60
9-10.5	180

11 or more	360
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MMV's are not a substitute for the current penalty system outlined in 205 CMR 3.29(2)(a)-(d) and are intended to be an additional uniform penalty when the licensed trainer:

- a. Has more than one violation for the relevant time period, and
- b. Exceeds the permissible number of points.

8. The suspension periods as provided above, shall run consecutive to any suspension imposed for the underlying offense.

9. The Judges' or Commission's ruling shall distinguish between the penalty for the underlying offense and the enhancement based upon a Judges or Commission review of the licensed trainer's cumulative points and regulatory record, which may be considered an aggravating factor in the case.

10. Any trainer who has received a medication violation may petition the ARCI to expunge the points received for the violation for the purpose of the MMV system only. The points shall be expunged by the ARCI upon request of the trainer as follows:

Penalty Classification	Time to Expungement
A	Permanent
B	3 years
C	2 years
D	1 year

(3) Medication Restrictions

(a) A finding by the commission approved laboratory of a prohibited drug, chemical or other substance in a test specimen of a horse is prima facie evidence that the prohibited drug, chemical or other substance was administered to the horse and, in the case of a post-race test, was present in the horse's body while it was participating in a race. Prohibited substances include:

- 1. Drugs or medications for which no acceptable threshold concentration has been established;
- 2. Controlled therapeutic medications in excess of established threshold concentrations or administration within the restricted time period as set forth in the version of the ARCI Controlled Therapeutic Medication Schedule in effect at the time of the violation;
- 3. Substances present in the horse in excess of concentrations at which such substances could occur naturally; and
- 4. Substances foreign to a horse at concentrations that cause interference with testing procedures.

(b) Except as otherwise provided by 205 CMR 3.00, a person may not administer or cause to be administered by any means to a horse a prohibited drug, medication, chemical or other

substance, including any restricted medication pursuant to 205 CMR 3.00 during the 24-hour period before post time for the race in which the horse is entered.

(4) Medical Labeling

(a) No person on association grounds where horses are lodged or kept, excluding licensed veterinarians, shall have in or upon association grounds which that person occupies or has the right to occupy, or in that person's personal property or effects or vehicle in that person's care, custody or control, a drug, medication, chemical, foreign substance or other substance that is prohibited in a horse on a race day unless the product is labeled in accordance with 205 CMR 3.29(4).

(b) Any drug or medication which is used or kept on association grounds and which, by federal or state law, requires a prescription must have been validly prescribed by a duly licensed veterinarian, and in compliance with the applicable state statutes. All such allowable medications must have a prescription label which is securely attached and clearly ascribed to show the following:

1. The name of the product;
2. The name, address and telephone number of the veterinarian prescribing or dispensing the product;
3. The name of each patient (horse) for whom the product is intended/prescribed;
4. The dose, dosage, duration of treatment and expiration date of the prescribed/dispensed product; and
5. The name of the person (trainer) to whom the product was dispensed.

(5) Non-Steroidal Anti-Inflammatory Drugs (NSAIDs)

(a) ~~The use of one of three approved NSAIDs shall be permitted under the following conditions:~~

~~1. Not to exceed the following permitted serum or plasma threshold concentrations which are consistent with administration by a single intravenous injection at least 24 hours before the post time for the race in which the horse is entered:~~

- ~~a. Phenylbutazone—2 micrograms per milliliter;~~
- ~~b. Flunixin—20 nanograms per milliliter;~~
- ~~c. Ketoprofen—10 nanograms per milliliter.~~

~~2. These or any other NSAID are prohibited to be administered within the 24 hours before post time for the race in which the horse is entered.~~

~~3. The presence of more than one of the three approved NSAIDs, in the post race serum or plasma sample is not permitted.~~

- ~~a. A finding of phenylbutazone below a concentration of one half (.5) microgram per milliliter of blood serum or plasma shall not constitute a violation of 205 CMR 3.29(5).~~
- ~~b. A finding of flunixin below a concentration of three (3) nanograms per milliliter of blood serum or plasma shall not constitute a violation of 205 CMR 3.29(5).~~



~~4. The use of all but one of the approved NSAIDs shall be discontinued at least 48 hours before the post time for the race in which the horse is entered.~~

(a) The use of NSAIDs shall be governed by the following conditions:

1. The use of all but one of the approved NSAIDs (phenylbutazone, flunixin, or ketofen) shall be discontinued at least 48 hours before the post time for the race in which the horse is entered. No NSAID shall be administered within 24 hours of such post time.

2. NSAIDs not included on the ARCI Controlled Therapeutic Medication Schedule are not to be present in a racing horse biological sample at a level exceeding the laboratory concentration of detection.

3. The presence of more than one NSAID may constitute a NSAID stacking violation consistent with the following restrictions:

a. A Type 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:

Diclofenac – 5 nanograms per milliliter of plasma or serum;

Firocoxib - 20 nanograms per milliliter of plasma or serum;

Flunixin – 20 nanograms per milliliter of plasma or serum;

Ketoprofen – 2 nanograms per milliliter of plasma or serum;

Phenylbutazone – 2 micrograms per milliliter of plasma or serum; or

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:

Diclofenac – 5 nanograms per milliliter of plasma or serum;

Firocoxib - 20 nanograms per milliliter of plasma or serum;

Flunixin – 3 nanograms per milliliter of plasma or serum;

Ketoprofen – 1 nanograms per milliliter of plasma or serum;

Phenylbutazone – 0.3 micrograms per milliliter of plasma or serum; or

all other non-steroidal anti-inflammatory drugs – laboratory concentration of detection.

b. A Type 2 NSAID Stacking Violation (Penalty Class C) occurs when:

i. Any one substance noted in 205 CMR 3.29(5)(a)(3)(a)(i) above 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:



Flunixin – 3 nanograms per milliliter of plasma or serum;

Ketoprofen – 1 nanogram per milliliter of plasma or serum; or

Phenylbutazone – 0.3 micrograms per milliliter of plasma or serum.

c. A Type 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 at or below the restrictions in 205 CMR 3.29(5)(a)(3)(a)(i) above but found in excess of the noted restrictions:

Flunixin – 3 nanograms per milliliter of plasma or serum;

Ketoprofen – 1 nanogram per milliliter of plasma or serum; or

Phenylbutazone – 0.3 micrograms per milliliter of plasma or serum.

(6) Furosemide

(a) In order for a horse to be placed on the Furosemide List the following process must 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 official veterinarian or his or her designee shall be notified, using the prescribed form, that the horse is to be put on the Furosemide List.
2. The form must be received by the official veterinarian or his or her designee by the time of entry.
3. A horse placed on the official Furosemide 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 official veterinarian or his or her designee, on the proper form, no later than the time of entry.
4. After a horse has been removed from the Furosemide 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 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.
5. Furosemide shall only be administered on association grounds.
6. Furosemide shall be the only authorized bleeder medication.
7. The use of furosemide shall not be permitted in two year olds.

(b) The use of furosemide shall be permitted under the following circumstances on association grounds where a detention barn is not utilized:

1. Furosemide shall be administered by single intravenous injection no less than four hours prior to post time for the race for which the horse is entered.
2. The furosemide dosage administered shall not exceed 250 mg. nor be less than 150 mg.
3. 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.

(c) 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;

2. Quantitation of furosemide in serum or plasma may be performed. Concentrations may not exceed 100 nanograms of furosemide per milliliter of serum or plasma.

(d) A horse which has been placed on the Furosemide List in another jurisdiction pursuant to these rules shall be placed on the Furosemide List in this jurisdiction. A notation on the horse's electronic eligibility certificate of such shall suffice as evidence of being on a Furosemide List in another jurisdiction.

#### (7) Bleeder List

(a) The official veterinarian shall maintain a Bleeder List of all horses, which have demonstrated external evidence of exercise induced pulmonary hemorrhage from one or both nostrils during or after a race or workout as observed by the official veterinarian.

(b) Every confirmed bleeder, regardless of age, shall be placed on the Bleeder List and be ineligible to race for the minimum following time periods:

1. First incident – 14 days;
2. Second incident – 30 days;
3. Third incident – 180 days;
4. Fourth incident – barred for racing lifetime.

(c) For the purposes of counting the number of days a horse is ineligible to run, the day the horse bled externally is the first day of the recovery period.

(d) The voluntary administration of furosemide without an external bleeding incident shall not subject the horse to the initial period of ineligibility as defined by this policy.

(e) A horse which has been placed on a Bleeder List in another jurisdiction under conditions similar to 205 CMR 3.29(7) shall be placed on a Bleeder List in this jurisdiction.

#### (8) Androgenic-Anabolic Steroids (AAS)

~~(a) No AAS shall be permitted in test samples collected from racing horses except for residues of the major metabolite of stanozolol, nandrolone, and the naturally occurring substances boldenone and testosterone at concentrations less than the indicated thresholds.~~

~~(b) Concentrations of these AAS shall not exceed the following plasma or serum thresholds for unchanged (i.e. not conjugated) substance or urine threshold concentrations for total (i.e., free drug or metabolite and drug or metabolite liberated from its conjugates):~~

~~1. Stanozolol: 1 ng/ml of total 16 $\beta$ -hydroxystanozolol in urine of all horses regardless of sex, or 25 pg/ml of stanozolol in plasma or serum of all horses regardless of sex;~~

~~2. Boldenone: 15 ng/ml of total boldenone in urine of male horses other than geldings, or 25 pg/ml of boldenone in plasma or serum of all horses regardless of sex;~~

3. Nandrolone: 1 ng/ml of total nandrolone in urine, or 25 pg/ml of nandrolone in plasma or serum for geldings, fillies, and mares.

4. Testosterone:

a. In geldings—20 ng/ml total testosterone in urine, or 25 pg/ml of testosterone in plasma or serum;

b. In fillies and mares—55 ng/ml total testosterone in urine, or 25 pg/ml of testosterone in plasma or serum.

(c) Any other anabolic steroids are prohibited in racing horses.

(d) Post race urine samples must have the sex of the horse identified to the laboratory.

(a) No 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 indicated thresholds.

(b) Concentrations of these AAS shall not exceed the following free (*i.e.*, 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; males horses other than geldings shall be tested for Nandrolone in urine (see (c)(2) below);

3. Testosterone – A confirmatory threshold not greater than 25 picograms/milliliter for fillies, mares, and geldings.

(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) Any other AAS are prohibited in racing horses.

(e) The sex of the horse must be identified to the laboratory on all pre-race and post-race samples designated for AAS testing.

(9) Alkalinizing Substances

The use of agents that elevate the horse's TCO<sub>2</sub> or base excess level above those existing naturally in the untreated horse at normal physiological concentrations is prohibited. The following levels apply to blood gas analysis:

- (a) The regulatory threshold for TCO<sub>2</sub> is 37.0 millimoles per liter of plasma/serum or a base excess level of 10.0 millimoles, and;
- (b) The decision level to be used for the regulation of TCO<sub>2</sub> is 37.0 millimoles per liter of plasma/serum plus the measurement uncertainty of the laboratory analyzing the sample or a base excess level of 10.4 millimoles per liter of plasma/serum.

(10) Compounded Medication on Association Grounds

- (a) The possession or use of a drug, substance, or medication on Association Grounds that has not been approved by the appropriate federal agency (e.g., the United States Food and Drug Administration in the United States) for any use (human or animal) is forbidden without prior permission of the Commission or its designee.
- (b) It is a violation of this regulation to possess, use, or distribute a compounded medication on Association 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 Association 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. 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) Labels on compounded veterinary drugs. All compounded medications must be labeled in accordance with section 205 CMR 3.29(4): Medical Labeling.

(11) Cobalt

- (a) The presence of cobalt in a serum or plasma sample, whenever obtained, at a concentration exceeding 25 parts per billion may be a violation subject to a category "A" penalty as set forth in the Uniform Classification Guidelines of Foreign Substances as promulgated by the Association of Racing Commissioners International and described in 205 CMR 3.29(1).
- (b) In the event a sample from a horse is tested and found to have a concentration of cobalt in excess of the established threshold, the horse will be placed on the veterinarian's list until such time as the concentration of cobalt in that horse's serum or plasma is below threshold.

**3.30: Out of Competition Testing for Blood and/or Gene Doping Agents**

- (1) Any horse on the grounds at a racetrack or training center under the jurisdiction of the commission; or under the care or control of trainer or owner licensed by the commission is subject to testing for blood and/or gene doping agents without advance notice.
- (2) Horses to be tested may be selected at random, with probable cause, or as determined by the commission;
- (3) The Official Veterinarian, or any licensed veterinarian or licensed veterinary technician authorized by the commission, may at any time, take a urine, blood or hair sample from a horse for this purpose.
- (4) Prohibited substances, practices and procedures are defined as:
  - (a) Blood doping agents including, but not limited to Erythropoietin (EPO), Darbepoetin, Oxyglobin, Hemopure, Aranesp or any substance that abnormally enhances the oxygenation of body tissues.
  - (b) Gene doping agents or the non-therapeutic use of genes, genetic elements, and/or cells that have the capacity to enhance athletic performance or produce analgesia.
- (5) Cooperation with the Official Veterinarian, or his or her designee, includes assisting in the immediate location and identification of the horse selected and providing a stall or safe location to collect the samples.
- (6) Split samples for out of competition testing will be collected as per 205 CMR 3.32(3).

**3.31: Physical Inspection of Horses**

(1) Assessment of Racing 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.
- (b) The inspection shall be conducted by the official veterinarian or the racing veterinarian.
- (c) The assessment of a horse's racing condition shall include:
  1. Proper identification of each horse inspected;

2. Clinical observation of each horse in motion during a warm-up mile, during the post parade, during the running of the race, and following the race until the horse has exited the race track;
  3. Visual inspection of the entire horse and assessment of overall condition; and,
  4. Any other inspection deemed necessary by the official veterinarian and/or the racing veterinarian including but not limited to manual palpation and/or manipulation of the limbs.
- (d) The official veterinarian shall maintain a permanent, continuing health and racing soundness record of each horse inspected.
- (e) The official veterinarian is authorized access to any and all horses housed on the association grounds regardless of entry status.
- (f) If, prior to starting, a horse is determined to be unfit for competition, the official veterinarian and/or the racing veterinarian will recommend to the judges the horse be scratched.
- (g) Horses scratched upon the recommendation of the official veterinarian and/or the racing veterinarian are to be placed on the Veterinarians' List.

(2) Veterinarian's List

- (a) The official veterinarian shall maintain the Veterinarian's List of all horses which are determined to be unfit to compete in a race due to illness, physical distress, unsoundness, infirmity or any other medical condition. Horses so listed are ineligible to enter to race in any jurisdiction until released by an official veterinarian or racing veterinarian.
- (b) A horse may be removed from the Veterinarian's List when, in the opinion of the official veterinarian, the condition which caused the horse to be placed on the veterinarian's List is resolved and the horse's status is returned to that of racing soundness.
- (c) Horses working to be released from the Veterinarian's List are to be in compliance with 205 CMR 3.00 and are to be subjected to post-work biologic sample collection for laboratory confirmation or compliance. Violations may result in penalties consistent with 205 CMR 3.29(1).
- (d) Horses may be released from the Veterinarian's List only by authorization of the official veterinarian.
- (e) Horses having generated a "positive" post race test for an RCI Class I or II substance shall be required to generate a negative test at the expense of the current owner prior to being entered for the first start following the positive test.

**3.32: Testing**

(1) Reporting to the Test Barn

- (a) The official winning horse and any other horse ordered by the Commission and/or the judges shall be taken to the test barn to have blood and urine samples taken at the direction of the official veterinarian.
- (b) Random or extra testing may be required by the judges or the Commission at any time on any horse on association grounds.



(c) Unless otherwise directed by the judges or the official veterinarian, a horse that is selected for testing must be taken directly to the test barn.

(d) A security guard shall monitor access to the test barn area during and immediately following each racing performance. All persons who wish to enter the test barn area must be a minimum of 16-years-old, be currently licensed by the Commission, display their Commission identification badge and have a legitimate reason for being in the test barn area.

(e) The owner, trainer or his or her groom or other authorized representative shall be present in the testing enclosure when a saliva, urine or other specimen is taken from his or her horse and shall remain until the sample tag is attached to the specimen container. Said tag shall be signed by the owner, trainer or their representative as witnesses to the taking of the specimen.

(f) Willful failure to be present at or a refusal to allow the taking of any such specimen or refusal to sign the specimen tag to the taking of a specimen, or any act or threat to impede or prevent or otherwise interfere therewith, shall subject the person or person guilty thereof to immediate suspension by the judges of the meeting and the matter shall be referred to the Commission for such further penalty as in its discretion it may determine.

(2) Testing of Claimed Horses

(a) In the event a horse is claimed, and has been designated for a post race test said claimed horse shall be brought to the State Testing Area by the previous owner, trainer, or agent, and said owner, trainer or agent shall remain with this horse in the testing area until a urine specimen or other sample or test is received from the horse, and said previous owner, trainer or agent shall sign all necessary documents.

(b) Should the analysis of a post race blood, urine or saliva specimen taken from a claimed horse result in a post race positive test, the claimant's trainer shall be promptly notified by the judges and the claimant shall have the option to void said claim. An election to void a claim shall be submitted in writing to the judges by the claimant or his or her trainer.

(3) Split Samples

(a) Split samples shall be secured and made available for further testing in accordance with the following procedures:

1. A split sample shall be secured in the test barn under the same manner as the portion of the specimen acquired for shipment to a primary laboratory until such time as specimens are packed and secured for shipment to the primary laboratory. Split samples shall then be transferred to a freezer/refrigerator at a secure location approved by the Commission.

2. A freezer/refrigerator for storage of split samples shall be opened only for depositing or removing split samples, for inventory, or for checking the condition of samples. A log shall be maintained that shall be used each time a split sample freezer/refrigerator is opened to specify each person in attendance, the purpose for opening the freezer/refrigerator, identification of split samples deposited or removed, the date and time the freezer/refrigerator was opened, and the time the freezer/refrigerator was closed.

3. Any evidence of a malfunction of a split sample freezer/refrigerator or samples that are not in a frozen condition during storage shall be documented in the log and immediately reported to the official veterinarian or a designated Commission representative.

(b) A trainer or owner of a horse having been notified that a written report from a primary laboratory states that a prohibited substance has been found in a specimen obtained pursuant to 205 CMR 3.00 may request that a split sample corresponding to the portion of the specimen tested by the primary laboratory be sent to another [referee] laboratory approved by the Commission. The request must be made in writing and delivered to the judges not later than three (3) business days after the trainer of the horse receives written notice of the findings of the primary laboratory. Any split sample so requested must be shipped within an additional 48 hours.

(c) The owner or trainer requesting testing of a split sample shall be responsible for the cost of shipping and testing. Failure of the owner, trainer or designee to appear at the time and place designated by the official veterinarian shall constitute a waiver of all rights to split sample testing. Prior to shipment, the Commission shall confirm the referee laboratory's willingness to simultaneously provide the testing requested, the laboratory's willingness to send results to both the person requesting the testing and the Commission, and arrangements for payment satisfactory to the referee laboratory.

(d) Prior to opening the split sample freezer/refrigerator, the Commission shall provide a split sample chain of custody verification form that shall provide a place for recording the following information and such other information as the official veterinarian may require. The form shall be fully completed during the retrieval, packaging, and shipment of the split sample. The split sample chain of custody form requirements are:

1. The date and time the sample is removed from the split sample freezer/refrigerator;
2. The sample number;
3. The address where the split sample is to be sent;
4. The name of the carrier and the address where the sample is to be taken for shipment;
5. Verification of retrieval of the split sample from the freezer/refrigerator;
6. Verification of each specific step of the split sample packaging in accordance with the recommended procedure;
7. Verification of the address of the referee laboratory on the split sample package;
8. Verification of the condition of the split sample package immediately prior to transfer of custody to the carrier; and
9. The date and time custody of the sample is transferred to the carrier.

(e) A split sample shall be removed from the split sample freezer/refrigerator by a Commission representative in the presence of a representative of the horsemen's association.

(f) The owner, trainer or designee shall pack the split sample for shipment in the presence of the representative of the Commission, in accordance with the packaging procedures recommended by the Commission. A form shall be signed by both the horsemen's representative and the Commission representative to confirm the packaging of the split sample. The exterior of the package shall be secured and identified with initialed tape, evidence tape or other means to prevent tampering with the package.



(g) The package containing the split sample shall be transported in a manner prescribed by the commission to the location where custody is transferred to the delivery carrier charged with delivery of the package to the Commission-approved laboratory selected by the owner or trainer.

(h) The owner, trainer or designee and the Commission representative shall inspect the package containing the split sample immediately prior to transfer to the delivery carrier to verify that the package is intact and has not been tampered with.

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

(j) If the split sample does not arrive at the referee laboratory because of an act of God or other condition beyond the control of the Commission, the findings in the original sample shall serve as *prima facie* evidence of any medication violation.

#### (4) Frozen Samples

The commission has the authority to direct the official laboratory to retain and preserve by freezing samples for future analysis. The fact that purse money has been distributed prior to the issuance of a laboratory report from the future analysis of a frozen sample shall not be deemed a finding that no drug substance prohibited by 205 CMR 3.00 has been administered.

#### (5) Suspicious Substances

The representatives of the Commission may take for analysis samples of any medicine or other materials suspected of containing improper medication or drugs which could affect the racing conditions of a horse in a race, which may be found in the stable area or elsewhere on the track or in the possession of any person connected with racing on such tracks.

### **3.33: Postmortem Examinations**

(1) The Commission may require a postmortem examination of any horse that dies or is euthanized on association grounds.

(2) The Commission may require a postmortem examination of any horse that dies or is euthanized at recognized training facilities within this jurisdiction.

(3) If a postmortem examination is to be conducted, the Commission shall take possession of the horse upon death for postmortem examination. All shoes shall be left on the horse.

(4) If a postmortem examination is to be conducted, the Commission or its representative shall collect blood, urine, bodily fluids, or other biologic specimens immediately, if possible before euthanization. The Commission may submit blood, urine, bodily fluids, or other biologic specimens collected during a postmortem examination for analysis. The presence of a prohibited substance in a specimen collected during the postmortem examination may constitute a violation.

(5) All licensees shall be required to comply with postmortem examination requirements as a condition of licensure. In proceeding with a postmortem examination the Commission or its designee shall coordinate with the owner or the owner's authorized agent to determine and address any insurance requirements.

### **3.34: Horseshoers**

An applicant for a license as horseshoer shall:

- (1) be at least 18 years of age;
- (2) be qualified by reason of experience, background and knowledge of horseshoeing, as determined by the judges after consulting with a veterinarian, a licensed trainer and a horseshoer who is currently licensed by the Commission. A horseshoer's license from another jurisdiction, having been issued within a prior period as determined by the judges, may be accepted as evidence of experience and qualifications.
- (3) Evidence of qualifications may require passing one or more of the following:
  - (a) a written examination;
  - (b) an interview or oral examination; and
  - (c) a demonstration of practical skills in horseshoeing.
- (4) Applicants not previously licensed as a horseshoer shall be required to pass a written/oral examination, demonstrate practical skills and submit at least two written statements as to the character and qualifications of the applicant.

### **3.35: Charter**

The official charter is responsible for providing a complete and accurate chart of each race. 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 half-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.

### **3.36: Clerk of the Course**

The clerk of the course/field representative shall be responsible for verifying the eligibility records provided by the USTA/SC and recording therein all required information and:

- (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;
- (5) provide an eligibility record to the horse's owner or the owner's representative when requested.

### **3.37: Horse Identifier**

- (1) General Authority

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 to confirm the horse's proper identity by checking the horse's tattoo number, color and markings, and freeze brand if applicable.

- (2) Report Violations

The horse identifier shall report to the judges any horse not properly identified in conformity with these rules.

### **3.38: Program Director**

- (1) General Authority

The program director is responsible for furnishing the public complete and accurate past performance information.

- (2) Program

Printed for each racing day shall be a program compiled which shall contain the names of the horses that are to run in the races for that day, these names to appear in the order of their post positions, the said position to be designated by numerals placed at the left and in line with the name of the horses in each race, which shall also be prominently displayed on each horse. The program shall also contain, in addition to the horse's name, its sex, color, age, sire and dam; the owner's name and address; the name of the trainer; the driver's name, date of birth, and colors; class and/or sub group of race; as many performance lines of the current or preceding year as the USTA deems appropriate; an indication if the driver is racing with a provisional license, and any other useful information approved by the judges.

### **3.39: Racing Secretary**

(1) General Authority

The racing secretary is responsible for setting the conditions for each race of the race meeting, supervise the nomination of entries and determining the amounts of purses, and to whom they are due. The racing secretary shall check and verify the eligibility of all horses entered.

(2) Eligibility

The racing secretary is responsible for verifying the eligibility of all horses competing at the track or stabled on association grounds.

(3) Claiming Authorizations

The racing secretary is responsible for maintaining the claiming authorizations of all declared horses.

(4) List of Nerved Horses

The racing secretary shall maintain a list of nerved horses that are on association grounds and shall post the list for inspection in the racing office by other licensees participating in the race meeting.

(5) Race Information

The racing secretary shall be familiar with the age, class and competitive ability of all horses racing at the race meeting.

(6) Classifications

The racing secretary shall classify horses in accordance with these rules and list horses in the categories in which they qualify.

(7) Listing of Horses

The racing secretary shall:

- (a) examine all entry forms and declarations to verify information as set forth therein; and
- (b) select the horses to start and the also eligible horses from the declarations in accordance with these rules.
- (c) provide the listing of horses in the daily program.

(8) 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.

(9) Conditions

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

(10) Posting of Entries

Upon completion of the draw each day, the racing secretary shall post a list of entries in a conspicuous location in racing office and make the list available to the media.

### (11) Stakes and Added Money Records

The racing secretary shall be caretaker of the permanent records of all stakes and shall verify that all added monies due are paid prior to declaration for races conducted at the race meeting.

### (12) Winnings

- (a) For the purpose of establishing conditions, winnings shall be considered to include all monies and prizes won up to the time of the start of a race.
- (b) Winnings during the year shall be calculated by the racing secretary from the preceding January 1.

## **3.40: Starter**

### (1) General Authority

- (a) No person shall be licensed as a Starter until he/she has successfully completed a written examination and satisfied the Commission that he/she has the necessary qualifications to perform the required duties.
- (b) The Starter shall:
  1. Be subject to the supervision of the judges;
  2. Be present in the starting gate at least fifteen 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;
  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

### (2) 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. Such a horse shall be refused declaration or entry until it has demonstrated to the starter that it has been satisfactorily schooled at the gate and can be removed from the Starter's List.

## **3.41: Timer**

### (1) General Authority

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

### (2) Timing Procedure

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 quarter mile shall also be recorded on the leading horse.

(3) Timing Races

- (a) In every race, the time of each heat shall be accurately recorded by two timers or an approved electrical timing device, in which case, there shall be one timer.
- (b) Times of heats shall be recorded in minutes, seconds and fifths of a second.
- (c) Immediately following each heat, the elapsed time of the heat shall be publicly announced and/or posted on the totalisator board.
- (d) No unofficial time shall be announced, posted or entered into the official record.

(4) 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 CMR 4.00: Horse Racing

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#### **4.01: Foreword**

The Massachusetts Gaming Commission, hereinafter called the Commission, was created by an act of the Legislature of the Commonwealth of Massachusetts in the year 2011. M.G.L. c. 23K as inserted by the session laws of 2011, chapter 194, section 16 and amendments states that the Commission shall have full power to prescribe rules, regulations and conditions under which all horse races or horse racing meetings shall be conducted in the Commonwealth.

205 CMR 4.00, applies to all persons or individuals, associations or corporations, which shall hold or conduct any running horse racing meeting within the Commonwealth of Massachusetts licensed by the Commission, where horse racing shall be permitted for any stake, purse or reward and the definitions here given are to be considered in connection with 205 CMR 4.00 and as a part of it.

All licensees and participants are charged with knowledge of 205 CMR 4.00. No licensee or other persons shall engage in his or her occupation at any Massachusetts running horseracing track without first reading 205 CMR 4.00.

Should any question arise as to the meaning of any rule or regulation, the Commission or its representatives will be available to provide an explanation.

Every license to hold a meeting is granted upon the condition that the licensee shall accept, observe and enforce 205 CMR 4.00. Furthermore; it shall be the duty of each and every officer, director and every official and employee of said licensee to observe and enforce 205 CMR 4.00.

Any and all of 205 CMR 4.00 may be amended, altered, repealed or supplemented by new and additional rules.

The Commission may make exceptions or waive any rule or rules in individual instances as in its judgment it may deem proper.

The Commission may rescind, modify or increase any penalty or decision on infraction of the rules imposed or made by the racing officials.

The laws of the Commonwealth of Massachusetts and 205 CMR 4.00 supersede the conditions of a race, or the regulations of a race meeting.

205 CMR 4.00 is supplemented by the State Administrative Procedure Law found in M.G.L. c. 30A. M.G.L. c. 30A provides the procedures that must be followed by all state agencies on such matters as the amending process and the adjudicatory procedure. Under M.G.L. c. 30A any interested party has the right to attend all hearings conducted by the Commission for the purpose of the adoption or amendment of any rule or regulation. The Commission shall afford any interested person an opportunity to present data, views or arguments in regard to any proposed rule change. Upon written notice to the Commission, a person may request the adoption, amendment or repeal of any regulation with an opportunity to present data, views or arguments in support of such request.

If a dispute should arise concerning a ruling by a steward or other racing official, any party affected by such ruling has a right to an appeal to the Commission upon written notice to the Commission within ten days. At such hearing each party shall be given an opportunity to be represented by an attorney, to call and examine witnesses, to introduce exhibits, to cross-examine witnesses who testify and to submit rebuttal evidence. The Commission shall make available upon request an official record of the hearing and a party may request and receive a transcript of such record upon payment to the Commission of the cost of such transcript. The Commission shall provide, in writing, its decision along with findings of fact and conclusions of law.

Any person who does not agree with a final decision of the Commission shall be entitled to judicial review of such decision by filing a petition for review in Superior Court within 30 days after receipt of notice of the final decision of the Commission. The review shall be conducted by the court without a jury and, in most instances, shall be confined to the record.

The rules on pari-mutuel wagering are located in an entirely separate rulebook entitled *205 CMR 6.00 Pari-mutuel Rules for Horse Racing, Harness Horse Racing and Greyhound Racing*.

#### **4.02: Definitions**

The following definitions and interpretations shall apply in 205 CMR 4.00 unless the text otherwise requires:

Act is the enabling legislation permitting pari-mutuel horse racing in this jurisdiction.

Added Money is the amount added into a stakes by the Association, or by sponsors, state-bred programs or other funds added to those monies gathered by nomination, entry, sustaining and other fees coming from the horsemen.

Administer or Administration is the introduction of a substance into the body of a horse.

Age of a horse foaled in North America shall be reckoned from the first day of January of the year of foaling.

Agency a fiduciary relationship created by express or implied contract or by law, in which one party (agent) may act on behalf of another party (principal) and bind that other party by words or actions.

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;

(b) The next preferred non-qualifier for the finals or consolation from a set of elimination trials which will become eligible in the event a finalist is scratched by the stewards for a rule violation or is otherwise eligible if written race conditions permit.

Allowance Race is an overnight race for which eligibility and weight to be carried is determined according to specified conditions that include age, sex, earnings and number of wins.

Appeal is a request for the Commission or its designee to investigate, consider and review any decision or rulings of stewards of a meeting.

Arrears are all monies owed by a licensee, including subscriptions, jockey fees, forfeitures and any default incident to 205 CMR 4.00.

Associated Person is the spouse of an inactive person, or a companion, family member, employer, employee, agent, partnership, partner, corporation, or other entity whose relationship, whether financial or otherwise, with an inactive person would give the appearance that such other person or entity would care for or train a racing animal or perform veterinarian service on a racing animal for the benefit, credit, reputation, or satisfaction of the inactive person.

Association is any person or persons, associations, or corporations licensed by the Commission to conduct horse racing within the Commonwealth of Massachusetts for any stake, purse or reward.

Association Grounds is all real property utilized by the Association in the conduct of its race meeting, including the racetrack, grandstand, concession stands, offices, barns, stable area, employee housing facilities and parking lots.

Authorized Agent is a person licensed by the Commission and appointed by a written instrument, signed and acknowledged before a notary public by the owner in whose behalf the agent will act.

Beneficial Interest is profit, benefit or advantage resulting from a contract or the ownership of an estate as distinct from the legal ownership or control. When considered as designation or character of an estate, is such an interest as a devisee, legatee or donee taken solely for his or her own use or benefit and not as holder of title for use and benefit of another.

Betting Interest is one or more horses in a pari-mutuel contest, which are identified by a single program number for wagering purposes.

Bleeder means a horse which has demonstrated external evidence of exercise induced pulmonary hemorrhage.

Bleeder List is a tabulation of all bleeders to be maintained by the Commission.

Breeder is the owner of the horse's dam at the time of foaling.

Calendar Day is 24 hours ending at midnight.

Cheek Piece is two strips of sheepskin or any other similar material attached to the cheek pieces of the bridle.

Claiming Race is a race in which any horse starting may be claimed (purchased for a designated amount) in conformance with the rules.

Commission is the regulatory agency with the authority to regulate racing.

Conditions are qualifications that determine a horse's eligibility to be entered in a race.

Contest is a competitive racing event on which pari-mutuel wagering is conducted.

Contestant is an individual horse participating in a contest.

Controlled Therapeutic Medication is any medication approved by the Association of Racing Commissioners International for which the regulatory analyte concentration in the sample(s) may not exceed specified regulatory limits published herein.

Coupled Entry is two or more contestants in a contest that are treated as a single betting interest for pari-mutuel wagering purposes (also see "Entry").

Day is a 24-hour period beginning at 12:01 A.M. and ending at 12:00 P.M. midnight. Shall mean a calendar day.

Dead Heat is the finish of a race in which the noses of two or more horses reach the finish line at the same time.

Declaration is the act of withdrawing an entered horse from a race prior to the closing of entries.

Draw means the process of assigning post positions and the process of selecting contestants in a manner to ensure compliance with the conditions of 205 CMR 4.00.

Ejected shall mean the removal from the grounds of an Association and shall apply to both patrons at racing meetings and participants in racing.

Entry is:

(a) a horse made eligible to run in a race;

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

Equipment as applied to a horse, shall include riding crops, spurs, blinkers, tongue straps, muzzles, hoods, nose-bands, bits, shadow rolls, martingales, breast plates, bandages, boots, plates, and cheek pieces.

Exclusion is the act of an association preventing a person from entering or remaining on the grounds of that association under the jurisdiction of the commission.

Exhibition Race is a race on which no wagering is permitted.

Financial Interest is an interest that could result in directly or indirectly receiving a pecuniary gain or sustaining a pecuniary loss as a result of ownership or interest in a horse or business entity; or as a result of salary, gratuity or other compensation or remuneration from any person. The lessee and lessor of a horse have a financial interest.

Flat Race is a race in which horses mounted by jockeys run over a course on which no jumps or other obstacles are placed.

Forfeit is money due from a licensee because of error, fault, neglect of duty, breach of contract or a penalty imposed by the Stewards or the Commission.

Furosemide List means a tabulation of all horses eligible to participate in a race with furosemide in their system.

General Partner shall mean the person or persons having full, exclusive and complete control and discretion of the management of the affairs of a Limited Partnership.

Guest Association is an association which offers licensed pari-mutuel wagering on contests conducted by another association (the host) in either the same state or another jurisdiction.

Handicap is a race in which the weights to be carried by the horses are assigned by the racing secretary or handicapper for the purpose of equalizing the chances of winning for all horses entered.

Horse is any equine (including and designated as a mare, filly, stallion, colt, ridgeling or gelding) registered for racing; specifically, an intact male five years of age or older.

Host Association is the association conducting a licensed pari-mutuel meeting from which authorized contests or entire performances are simulcast.

Inactive Person is any person whose license has been suspended for more than 30 days; whose license has expired or been revoked; or whose license application has been denied.

Inquiry is an investigation by the Stewards of potential interference in a contest prior to declaring the result of said contest official.

Jockey is a professional rider licensed to ride in races.

Jockey Agent is a person who represents a jockey in negotiations with owners/trainers to arrange for riding engagements.

Law or Laws shall mean M.G.L. c. 128A: *Horse and Dog Racing Meetings*

Licensee is any person or entity holding a license from the Commission to engage in racing or a regulated activity.

Limited Partnership shall mean any person holding an interest in a horse, who is not a general partner.

Maiden is a horse that has never won an official or recognized race as defined in breed registry rules.

Maiden Race is a contest restricted to non-winners.

Match Race is a race between two horses under conditions agreed to by their owners.

Measurement Uncertainty is a parameter associated with the results of a measurement that characterizes the dispersion of the values that could reasonably be attributed to the measurement.

Medication is any substance or metabolite capable of exerting a pharmacological effect on the horse's system with an accepted use in the diagnosis, cure, treatment or prevention of a veterinary medical condition.

Meeting is the specified period and dates each year during which an association is authorized to conduct racing by approval of the Commission.

Month is a calendar month.

Multiple Ownership shall mean any ownership of a horse by more than one individual.

Mutuel Field is two or more contestants in a contest that are 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 is the naming of a horse to a certain race or series of races generally accompanied by payment of a prescribed fee.

Nominator is the person or entity in whose name a horse is nominated for a race or series of races.

Objection is:

(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 verbal claim of foul in a race lodged by the horse's jockey, trainer, owner or the owner's authorized agent before the race is declared official.

Official Order of Finish is the order of finish of the horses in a contest as declared official by the Stewards.

Official Starter is the official responsible for dispatching the horses for a race.

Official Running Time is the elapsed time from the moment the first horse crosses the starting point until the first horse crosses the finish line.

Off Time is 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. In the case of horses entered to be claimed in such a race, the race shall be considered, for the purpose of 205 CMR 4.00, a claiming race. In the case of horses not entered to be claimed, the race shall be considered an allowance race.

Overnight Race is a contest for which entries close at a time set by the racing secretary; also known as "Purse Race."

Owner is a person who holds any title, right or interest, whole or partial in a horse, including the lessee and lessor of a horse.

Paddock is an enclosure in which horses scheduled to compete in a contest are saddled prior to racing.

Pari-Mutuel System is a manual, electro-mechanical, or computerized system and all software (including the totalisator, account betting system and off-site betting equipment) that is used to record bets and transmit wagering data.



Patron is a member of the public present on the grounds of a pari-mutuel association during a meeting.

Performance is a schedule of contests conducted on the same day as authorized by the Commission.

Permit is an authorization by the Commission to an association to conduct horse racing with pari-mutuel wagering at a specified location.

Person is any individual, partnership, corporation or other association or entity.

Place in racing shall mean first, second, third, or fourth, and in that order is called "Win," "Place," "Show" and "Fourth".

Post Position is the pre-assigned position from which a horse will leave the starting gate.

Post Time is the scheduled time for horses to arrive at the starting gate for a contest.

Prima Facie Evidence is evidence that, until other evidence overcomes its effect, will suffice as proof of fact in issue.

Produce Race is one in which the produce of horses named or described at the time of entry are the contestants.

Program is the published listing of all contests and contestants for a specific performance.

Protest is a written objection charging that a horse is ineligible to race, alleging improper entry procedures, or citing an act or an owner, trainer, jockey or official prohibited by rules, which, if true, shall exclude that horse/jockey from racing.

Purse is the total cash amount for which a race is contested.

Race is a contest between horses at a licensed meeting.

Race Day ~~means any period of 24 hours beginning at midnight and included in the period of a race meeting—and in a matter of penalties the word "day" means a "calendar day."~~ **A day during a racing meeting when pari-mutuel wagering is conducted on live racing. In the matter of penalties the word "day" shall mean a "calendar day."**

Restricted Area is an enclosed portion of the association grounds to which access is limited to licensees whose occupation or participation requires access and members of the Commission and its staff.

Result is that part of the official order of finish used to determine the pari-mutuel payoff of pools for each individual contest.

Ruled Off shall mean the act of debarring from the grounds of an Association and denying all racing privileges.

Scratch is the act of withdrawing an entered horse from a contest after closing of entries.

Scratch Time is the deadline set by the association for withdrawal of entries from a scheduled performance.

Simulcast is the live audio and visual transmission of a contest to another location for pari-mutuel wagering purposes.

Stable Name is a name used other than the actual legal name of an owner or lessee and registered with the Commission.

Stakes Race is a contest in which nominations, entry and/or starting fees contribute to the purse. No overnight race shall be considered a stakes race. Special designations or classifications for stakes races such as "Graded Stakes" or "Black Type" shall be determined by the appropriate breed registries or recognized authorities.

Starter is a horse that becomes an actual contestant in a race by virtue of the starting gate opening in front of it upon dispatch by the official starter.

Steeplechase Race is a contest in which horses mounted by jockeys run over a course on which jumps or other obstacles are placed.

Steward is a duly appointed racing official with powers and duties specified by rules.

Subscription shall mean the act of nomination to a stake race.

Substantial Evidence is a evidence which a reasoning mind would accept as sufficient to support a particular conclusion and consists of more than a mere scintilla of evidence but may be somewhat less than a preponderance.

Suspended shall mean that any privilege granted to a licensee of the Commission by the officials of a racing meeting or by the Commission has been withdrawn.

Traction Device is any modification or isolated device that extends below the ground bearing plane of the horseshoe (e.g. traction nails, toe grabs, turndowns, blocked heels, jar calks, stickers and Memphis bars) or restricts the natural forward slide of the hoof upon impact.

Trial Race is part of a series of contests in which horses participate for the purpose of determining eligibility for a subsequent contest.

Walkover is a race in which only one horse starts or in which all the starters are owned by the same interest. To claim the purse the horse(s) must start and go the distance of the race.

Week is a calendar week and/or any seven consecutive days.

Weigh In is the presentation of a jockey to the clerk of scales for weighing after a race.

Weigh Out is the presentation of a jockey to the clerk of scales for weighing prior to a race.

Weight for Age is a race in which a fixed scale is used to assign the weight to be carried by individual horse according to age, sex, distance of the race, and season of the year.

Winner is the horse whose nose reaches the finish line first or is placed first through disqualification by the stewards.

Year is a calendar year.

#### **4.03: Appeal to the Commission** (Repealed)

~~(1) A final appeal in the case of any person penalized or disciplined by the racing officials of a meeting licensed by the Commission, may be taken to the Commission.~~

~~(2) Such an appeal must be filed in writing at the office of the Commission within ten days of date of said penalty or imposition of said discipline.~~

~~(3) The request shall be signed by the person making it and must set forth his or her reason for believing he or she is entitled to a hearing.~~

~~(4) An applicant for a hearing will be heard in person and may be represented by counsel.~~

~~(5) All complaints and requests to the Commission must be in writing, and all papers filed with the Commission shall be the property of the Commission.~~

~~(6) An appeal from a decision of a racing official to the Commission shall not affect such decision until the Commission has acted upon the appeal.~~

#### **4.04: Stable Names, Registration Fees, Restrictions, etc.** (Repealed)

~~(1) Each Stable name must be duly registered with the Commission.~~

~~(2) In applying to race under a stable name the applicant must disclose the identity or identities behind a stable name. If a partnership is involved in the identity behind a stable name, 205 CMR 4.26 must be complied with and the usual fees paid therefor in addition to the fees for the registration of a stable name.~~

~~(3) If a corporation is involved in the identity behind a stable name, 205 CMR 4.09 must be complied with.~~

~~(4) Changes in identities must be reported immediately to and approval obtained from the Commission.~~

~~(5) A person cannot register more than one stable name at the same time nor can he or she use his or her real name for racing purposes, so long as he or she has a registered one.~~

~~(6) Any person who has registered under a stable name may at any time cancel it after he or she has given written notice to the Commission.~~

~~(7) A stable name may be changed at any time by registering a new stable name and by paying the fee required as above.~~

~~(8) A person cannot register as his or her stable name one which has been registered by any other person with any association conducting a recognized meeting.~~

~~(9) A person may not register as his or her stable name one which is the real name of any owner of race horses nor one which is the real or assumed name of any prominent person not owning race horses.~~

~~(10) A stable name shall be plainly distinguishable from that of another duly registered stable name.~~

~~(11) No stable name shall be used, if in the judgment of the Stewards, it is being used for advertising purposes.~~

~~(12) A corporate name shall be considered a stable name for the purpose of 205 CMR 4.00, but the Commission reserves the right to refuse any corporation the privilege of registering a stable name.~~

~~(13) A trainer, who is a licensed owner or part owner, may use a stable name as owner or part owner. However, no trainer may be licensed as a trainer other than in his or her legal name.~~

#### **4.05: Authorized Agent-Licenses, Filing Instrument, etc.**

~~(1) Each authorized agent must obtain a license from the Commission.~~

~~(2) Application for a license must be filed for each owner represented.~~

~~(3) If a written instrument signed by the owner accompanies the application it shall clearly set forth among the delegated powers whether or not said agent is empowered to collect money from the Association.~~

~~(4) If the written instrument is a power of attorney, it shall be filed permanently with the Racing Secretary. If, however, the powers are properly delegated by the owner on the application form for a license then said application shall be in duplicate with both copies signed and sworn to before a Notary Public and one copy filed permanently with the Racing Secretary.~~

~~(5) An Authorized Agent may appoint a sub-agent only when specifically authorized so to do by the above said written instrument and, to be effective, notice of such appointment must be given immediately in writing to the Commission.~~

~~(6) Any changes must be in writing and filed as provided.~~

~~(7) If an agent represents more than one owner a separate written instrument shall be filed for each owner and the fee paid in each case.~~

~~(8) The term of the license shall be the calendar year unless the owner revokes the agent's appointment or the Commission revokes the license.~~

~~(9) Owner's revocations must be filed in writing with the Commission and with the Racing Secretary.~~

#### (1) Licenses Required

- (a) An authorized agent shall obtain a license from the Commission.
- (b) An application for license shall be filed for each owner represented.
- (c) 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.
- (d) If the written instrument is a power of attorney it shall be filed with the Commission and attached to the regular application form.
- (e) Any changes shall be made in writing and filed as provided in this section.
- (f) The authorized agent's appointment may be terminated by the owner or authorized agent, in writing, and filed with the Commission.

#### (2) Powers and Duties

- (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 such 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.

### **4.06: Claiming**

(1) In claiming races any horse is subject to claim for its entered price by any owner registered in good faith for racing at the meeting or by his or her authorized agent. Said claim is for the

account only of the owner making the claim or for whom the claim was made by the agent provided. No person shall claim his or her own horse or cause his or her horse to be claimed directly or indirectly for his or her own account.

(2) No one may claim more than one horse out of any one race.

(3) No authorized agent, although representing several owners shall submit more than one claim for any one race.

(4) When a stable consists of horses owned by more than one person, trained by the same trainer, not more than one claim may be entered on behalf of such stable in any one race.

(5) If a horse is claimed, it shall not start in a claiming race for a period of 30 days from the date of claim for less than the amount for which it was claimed. A claimed horse shall not race elsewhere until after the close of the meeting at which it was claimed or until 60 calendar days the day after the claim, whichever comes first.

(6) The adoption by any state of any rule limiting the amount at which a horse may be entered in a claiming race shall not be deemed inconsistent with 205 CMR 4.06(5).

(7) When a horse is claimed at a recognized meeting under rules that are at variance with 205 CMR 4.06, title to such horse shall be recognized in Massachusetts to follow the rule of the meeting under which it was claimed.

(8) Not more than two horses of the same ownership or interest shall be entered in a claiming race and both may start except that two horses coupled by common ownership shall not start if it deprives an uncoupled horse of starting.

(9) If a horse is claimed it shall not be sold or transferred to anyone wholly or in part, except in a claiming race, for a period of 30 days from the date of claim (the day of the claim and the 30th day from the day of the claim shall not be counted), nor shall it, unless reclaimed, remain in the same stable or under the control or management of its former owner or trainer for a like period.

(10) The claiming price of each horse in a claiming race shall be printed on the program, and all claims for said horse shall be for the amount so designated. Should more than one claim be filed for the same horse, the disposition of the horse shall be determined by lot under direction and supervision of one or more of the Stewards.

(11) All claims must be made in writing, on forms and in envelopes furnished by the Association and approved by the Commission. Both forms and envelopes must be filled out completely and must be sufficiently accurate to identify the claim; otherwise the claim will be void.

(12) Each person desiring to make a claim must first deposit with the Association's horsemen's bookkeeper the whole amount of the claim in cash plus any amount that may be required by Federal, State or Local law as a tax, for which a receipt will be given unless at the time of depositing said claim he or she shall have such amount to his or her credit with the Association.

(13) All claims shall be sealed and deposited in a locked box provided for this purpose. No money shall accompany the claim.

(14) When a claim has been filed it is irrevocable and at the risk of the claimant.

(15) The money deposited for any claimed horse shall be held by the Racing Secretary until the registration certificate on the claimed horse is surrendered, though the claimed horse may go on and race for the new owner or owners, regardless.

(16) All claims shall be deposited in the claiming box at least ten minutes before the established post time of each race; shall be certified by an approved time stamp and the claim box shall be opened only in the presence of the Stewards or their deputy.

(17) No official or other employee of an Association shall give any information as to the filing of claims until after the race has been run.

(18) The Stewards or their deputy shall pass upon all claims.

(19) A horse claimed shall not be delivered by the original owner to the successful claimant until authorization shall be given by the Clerk of the Course, and every horse so claimed shall run in the interest and for the account of the owner who entered it in the race, but title to the claimed horse shall be vested in the successful claimant from time said horse becomes a starter and said claimant shall become the owner of the horse, whether it be alive or dead, sound or unsound or injured during the race or after it.

(20) The Stewards may, at any time, at their discretion, require any person making a claim for a horse in any claiming race, to make affidavit in writing that he or she is claiming said horse for his or her own account or as authorized agent and not for any other person. Any person making such affidavit willfully and falsely shall be subject to punishment in the same manner as is hereinafter provided for the punishment of other persons' violation of any of the terms of 205 CMR 4.06.

(21) No person shall refuse to deliver to the person legally entitled thereto a horse claimed out of a claiming race, and furthermore, the horse in question shall be disqualified until delivery is made.

(22) No person shall offer, or enter into an agreement, to claim or not to claim, or attempt to prevent another person from claiming, any horse in a claiming race; nor shall any person attempt by intimidation to prevent anyone from running a horse in any race for which it is entered nor shall any owner or trainer running horses in any claiming race make any agreement for the protection of each other's horses.

(23) No person or persons shall enter, or allow to be entered, in a claiming race, a horse against which any claim is held, either as a mortgage, bill of sale, or lien of any kind, unless when or before entering the horse the written consent of the holder of the claim shall be filed with the Clerk of the Course of the Association conducting said race.



(24) Notwithstanding any designation of sex appearing on the racing program or in any racing publication, the claimant of a horse shall be solely responsible for determining the sex of the horse claimed.

(25) When a horse is claimed out of a claiming race, the horse's engagements are included.

(26) Any person or persons claiming ownership in a horse after such horse has run in a claiming race in the name of another person having peaceful and undisputed possession of that horse shall be ruled off.

(27) The claiming rules set forth in 205 CMR 4.06(1) through (26) shall apply to all races under the jurisdiction of the Commission, including steeplechases, which are run under claiming conditions; provided, however, that in any such steeplechase no horse shall be subject to claim except by the owners of other horses running in such race, or their authorized agent, but for the account of the person making the claim.

(28) Any person violating any of the provisions of 205 CMR 4.06 shall be subject to punishment by the Stewards who may, in their discretion, punish the person so offending by forfeiture or suspension or ruling off, or by denying the privilege of the course. The Stewards shall, in every case, report their action to the Commission which may exclude such person either temporarily or permanently from all race meetings under its jurisdiction.

(29) The Stewards shall issue a claiming authorization to any person who makes an application on forms prescribed for that purpose and who meets the following three requirements:

(a) Meets all the requirements for the issuance of an owner's license, except that the applicant need not own a horse or have any previous experience in racing.

(b) Has an agreement with a licensed trainer to train any horse claimed pursuant to the claiming authorization. The holder of a claiming authorization and the trainer shall promptly notify the Stewards in writing if such agreement is terminated before a horse is successfully claimed.

(c) Has on deposit with the horsemen's bookkeeper the amount of the claim plus any amount that may be required by Federal, State, or Local law as a tax.

(30) The claiming authorization shall be valid only at the track that the authorization is granted for the calendar year in which it is issued, or until such time as the holder of the claiming authorization becomes a horse owner either through use of the claiming authorization or through private purchase. If the authorization card does not accompany the claim blank when filed it shall be voided.

(31) The same fee charged for an Owner's license shall be payable to the Commission by the applicant prior to the issuance of a claiming authorization. The holder of a claiming authorization shall not, by virtue thereof, be entitled to admission to the stable area, grandstand, or clubhouse at prices less than those charged the general public.

(32) An application for claiming authorization may be denied or revoked, for any reason that would justify denial, suspension, or revocation of an owner's license. Any person whose claiming authorization is denied or revoked shall have the same rights to notice and hearing as an owner whose license is denied, suspended or revoked.

(33) When an Owner ships a horse in for racing purposes from another jurisdiction and does not have any other horses stabled on the grounds and said horse is claimed, the Owner so affected may obtain a certificate from Stewards of the meeting, and on presentation of the certificate, the Owner shall be entitled to claim during the next 30 days or until such time as he or she has claimed a horse.

(34) Notwithstanding any other provision of 205 CMR 4.06, in claiming races, a horse may be declared not subject to claim if:

- (a) The horse has not started at any racetrack within 180 days of its last start; and
  - i. The horse's last race was one in which the horse was entered to be claimed; and
  - ii. The horse is entered for a claiming price at least equal to the claiming price for which the horse last started.
- (b) The horse must be declared ineligible at the time of entry, which declaration shall clearly be stated in the program; and
- (c) Ineligibility to be claimed shall only apply to the horse's first start as an official starter following each such 180 day or longer layoff.

#### **4.07: Clerk of the Scales, Duties, etc.**

~~(1) The Clerk of the Scales shall weigh all jockeys out and in.~~

~~(2) The Clerk of the Scales shall record and publish on the notice board any overweight or any change of jockey, weight or racing colors, as compared with those stated on the official program and shall promptly supply all proper racing officials with all pertinent changes.~~

~~(3) The Clerk of the Scales shall promptly report to the Stewards any infraction of 205 CMR 4.00 with respect to weight, weighing, or riding equipment.~~

~~(4) The Clerk of the Scales shall report to the Racing Secretary after the close of each day's racing, the weights carried by each horse in each race, together with the name of each horse's jockey and the overweight carried by any jockey. He or she shall also report the post time and running time in each race and other data that may from time to time be required.~~

~~(5) No horse shall carry more than two pounds overweight without consent of its owner or representative; nor shall a horse carry more than seven pounds overweight in any race. If the overweight is more than ½ pound in excess of the weight the horse is to carry, the jockey shall declare the amount of overweight to the Clerk of Scales at least 45 minutes before the time appointed for the first race of the day and the Clerk shall have the overweight posted on the~~

~~Notice Board and announced over the public address system. Failure on the part of any jockey to comply with 205 CMR 4.07(5) shall be reported to the Stewards.~~

~~(6) A horse shall not become a starter in a sweepstakes unless it has been announced as such to the Clerk of the Scales not less than 45 minutes before the time appointed for the race.~~

#### **(1) General Authority**

The clerk of scales shall:

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

#### **4.08: Colors, Registration Fees, etc. (Repealed)**

~~(1) Colors registered for life with any State Gaming or Racing Commission or with the Jockey Club of New York shall be respected in Massachusetts and only the registrant shall be permitted to use them.~~

~~(2) No person shall start a horse in racing colors other than those registered in his or her own or stable name, but a temporary change from the recorded racing colors may be approved by the Stewards.~~

~~(3) The Stewards shall decide any dispute between claimants to the right of particular racing colors.~~

~~(4) The Commission will not permit the use of colors that in their opinion are not neat and clean and proper in all other respects.~~

#### **4.09: Corporations (Repealed)**

~~(1) Corporations racing horses in Massachusetts shall furnish the following information:~~

~~(a) The corporation shall furnish to the Stewards and the Commission a statement giving the names of all persons connected with the corporation including officers, directors and stockholders.~~

~~(b) The corporation shall furnish to the Stewards and the Commission a certificate stating that no person or persons connected with the corporation (officer, director or stockholder) have any beneficial interest in any horse or horses running in their name or the name of any other person or persons racing at the same track where the corporation owned horse or horses are running.~~

~~(c) The corporation shall designate to the Stewards and the Commission the name of one individual, preferably an officer, (not the trainer) who shall act as Agent for the corporation.~~

~~(2) All licensed persons listed in the corporation shall be liable for entry fees and penalties against horses raced by the corporation.~~

~~(3) In the event that one of the persons listed in the corporation is suspended all horses owned by the corporation may be suspended at the discretion of the Stewards and or Commission.~~

~~(4) Each of the persons holding a beneficial interest in the corporation shall be in good standing in racing.~~

~~(5) The agent designated to act for the Corporation, and any person holding a beneficial interest of 20% or more in the Corporation shall be licensed as owners. Any person whose beneficial interest in the Corporation is less than 20% shall not be licensed as an owner unless they establish a *bona fide* need for the license and the issuance of the license shall be approved by the stewards. If a husband and wife are listed in the Corporation and their total beneficial interest in the Corporation represents 20% or more of the Corporation they shall both be licensed as owners.~~

~~(6) All the stockholders or members of a corporation which leases horses for racing purposes in the Commonwealth of Massachusetts and also all such corporations shall make and file with the Commission as and when requested by it, a report or reports containing such information as the Commission may specify; and upon refusal or failure to file such report or reports the Commission may refuse a license to any lessee or lessees of such corporation or may revoke any such license which it may have granted.~~

#### **4.10: Corrupt Practices**

(1) No person shall influence, induce or conspire or connive with or attempt to do so, any owner, trainer, jockey, agent, driver, groom or other person associated with or interested in or having charge of or access to any horse entered or to be entered in a race for the purpose of fraudulently affecting the ultimate result of such race.

(2) No person shall willfully enter, or cause to be entered, or start a horse that he or she knows or believes to be ineligible or disqualified.

- (3) No person shall offer or receive money or any other benefit for declaring or scratching an entry from a race.
- (4) No person shall conspire with any other person for the commission of, or connive with any other person in any corrupt or fraudulent practice in relation to racing nor shall he or she commit such act on his or her own account.
- ~~(5) No person without proper notice to the Stewards, shall be part owner or trainer of any horse in which a jockey has an interest.~~
- ~~(6) No person shall make a bet for the account of any jockey except the owner or trainer of the horse the jockey is riding, and then only on said horse.~~
- (7) No person shall offer or give a jockey any money or other benefit in relation to a race, unless said person is the owner or trainer of the horse ridden in said race by said jockey.
- (8) No person shall solicit bets on the grounds of an Association.
- (9) No electrical or mechanical device or other expedient designed to increase or decrease the speed of a horse, (or that would tend so to do) other than the ordinary riding crop or spurs, shall be possessed by any one or applied by any one to a horse at any time on the grounds of an Association, during a Meeting whether in a race or otherwise.
- (10) No person shall tamper or attempt to tamper with any horse in such a way as to affect its speed in a race, nor shall be counsel or in any way aid or abet any such tampering.
- (11) No person shall assume or pay, directly or indirectly, a forfeiture imposed upon a jockey.
- (12) No jockey's attendant shall make a bet on any race nor shall he/she place a bet for anyone else.

#### **4.11: Rules of the Race**

##### (1) Entries and Nominations.

(a) Entering. No horse shall be qualified to start unless it has been and continues to be entered.

(b) Procedure.

1. 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 one year.

2. 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.

3. Races printed in the condition book shall have preference over substitute and extra races.

4. An entry must be in writing, by telephone or facsimile machine to the Racing Secretary. The entry must be confirmed in writing should the stewards or the Racing Secretary so request.

5. The person making an entry shall clearly designate the horse so entered.

6. No alteration may be made in any entry after the closing of entries, but an error may be corrected with permission of the stewards.

7. No conditional entries will be accepted.

8. No horse may be entered in more than one race (with the exception of stakes races) to be run on the same day on which pari-mutuel wagering is conducted.

9. Any permitted medication or approved change of equipment must be declared at time of entry.

(c) Coupled Entries.

1. Two or more horses that are entered in a race shall be joined as a mutuel entry and single betting interest if they are owned or leased in whole or in part by the same owner.

2. 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.

(d) Nominations.

1. Any nominator to a stakes race may transfer or declare such nomination prior to closing.

2. Any one of joint owners of a horse may make joint nominations and entries, and each such owner shall be jointly and severally liable for all payments due.

3. Death of a horse, or a mistake in its entry when such 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.

4. 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.

5. 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 such nomination shall be void as of the date of such transfer.

6. 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 such nomination fees paid shall be refunded.

(e) Closings.

1. Entries for purse races and nominations to stakes races shall close at the time designated by the association in previously published conditions for such races. No entry, nomination or declaration shall be accepted after such closing time; except 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 such closing time.

2. 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.

(f) 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 horses that, in the opinion of the stewards, can be afforded a safe, fair and equal start may further limit the number of starters.

(g) Split or Divided Races.

1. In the event a race is canceled or declared off, the association may split any overnight race for which postpositions have not been drawn.

2. Where a overnight race is split, forming two or more separate races, the racing secretary shall give notice of not less than 15 minutes before such races are closed to grant time for making additional entries to such split races.

(h) 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.

(i) Also-Eligible List.

1. 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.

2. 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 public lot.

3. Any owner or trainer of a horse on the also-eligible list who does not wish to start the horse in such race shall so notify the Racing Secretary prior to scratch time for the race.

(j) Preferred List.

1. 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 manner in which the preferred list shall be maintained and all rules governing such list shall be the responsibility of the Racing Secretary. Such rules must be submitted to the Commission 30 days prior to the commencement of the race meeting and are subject to the approval of the Commission.

2. A copy of the preferred list will be posted each afternoon and any claim of error must be made by 10:00 o'clock in the morning of the following race day, and the Stewards will recognize no claim of error not made within the prescribed time.

3. In entering horses on the preferred list a claim of preference must be made at the time of entry and noted on the entry or preference shall be lost, and no claim of error will be considered by the Stewards if the person making the claim has signed an entry not marked in keeping with this rule.

(2) Declarations and Scratches. Declarations and scratches are irrevocable.

(a) Declarations.

1. A declaration is the act of withdrawing an entered horse from a race prior to the closing of entries.

2. 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 205 CMR4.00.

(b) Scratches.

1. A scratch is the act of withdrawing an entered horse from a contest after the closing of entries.

2. The owner, trainer or their licensed designee shall make the scratch of a horse after closing, with permission from the stewards.

3. 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.

4. No horse may be scratched from an overnight race without approval of the stewards.



5. In overnight races, horses that are physically disabled or sick shall be permitted to be scratched first. Should horses representing more than ten betting interests in the daily double or exotic wagering races, or horses representing more than eight betting interests in any other overnight race, remain in after horses with physical excuses have been scratched, then owners or trainers may be permitted at scratch time to scratch horses without physical excuses down to such respective minimum numbers for such races. Lot shall determine this privilege if an excessive number of owners or trainers wish to scratch their horses.

6. Any horse which has been scratched, or excused from starting by the stewards, because of a physical disability or sickness, shall not race until the expiration of a minimum of four calendar days (inclusive of the day the horse was originally scratched) after such horse was scratched or excused and the horse has been removed from the veterinarian's list by the official veterinarian.

(3) Weights.

(a) Allowances.

1. 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.
2. 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.
3. Horses not entitled to the first weight allowance in a race shall not be entitled to any subsequent allowance specified in the conditions.
4. 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.
5. A horse shall not be given a weight allowance for failure to finish second or lower in any race.
6. No horse shall receive allowance of weight nor be relieved extra weight for having been beaten in one or more races, but 205 CMR 4.11(3)(a) 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.
7. Except in handicap and races which expressly provide otherwise, two-year-old fillies shall be allowed three pounds, and fillies and mares, three-years-old and upward, shall be allowed five pounds before September 1 and three pounds thereafter in races where competing against male horses.

(b) Penalties.

1. Weight penalties are obligatory.
2. Horses incurring weight penalties for a race shall not be entitled to any weight allowance for that race.
3. No horse shall incur a weight penalty or be barred from any race for having been placed second or lower in any race.
4. A penalty incurred and allowances due in steeplechase or hurdle races shall not apply to races on the flat, and vice versa.
5. 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.
6. When the decision of a race is in dispute, all horses involved in the dispute with respect to the winner's credit shall be liable to all weight penalties and eligibility attached to the winning of that race until a winner has been adjudged.
7. No horse shall incur a weight penalty for a placement from which he or she is disqualified, but a horse placed through the disqualification of another horse shall incur the weight penalties of that placement. No such placement, however, shall make a horse ineligible to a race that already has been run.
8. A horse shall start with only the allowance of weight to which it is entitled at the time of starting, regardless of its allowance at the time of entry.

(c) Weight Conversions. For the purpose of determining weight assignments and/or allowances for imported horses, the following weight conversions shall be used:

1 kilogram = 2 ¼ pounds

1 Stone = 14 pounds

(d) Scale of Weights.

1. With the exception of apprentice allowances, handicap races, three year old horses entered to run in races against horses four years old and upwards, and the allowance provided in subsection (2) of 205 CMR 4.11(d), no jockey shall be assigned a weight of less than 118 pounds. For three year old horses entered to run in races against horses four years old and upwards from January 1 through August 31, no jockey shall be assigned a weight of less than 116 pounds.
2. Except in handicaps, fillies two years old shall be allowed three pounds, and fillies and mares three years old and upward shall be allowed five pounds before September 1, and three pounds thereafter, in races where competing against horses of the opposite sex.

3. A notice shall be included in the daily program that all jockeys will carry approximately three 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 up to an additional three pounds for inclement weather gear.

(e) Distance Conversions.

1. For the purpose of determining eligibility, weight assignments and/or allowances for imported horses, the racing secretary shall convert metric distances to English measures by reference to the following scale:

2. Comparative Table of Distances.

200 Meters	= 1 Furlong
1,000 Meters	= 5 Furlongs
1,200 Meters	= 6 Furlongs
1,400 Meters	= 7 Furlongs
1,600 Meters	= 1 Mile
1,700 Meters	= 1-1/16 Miles
1,800 Meters	= 1-1/8 Miles
2,000 Meters	= 1-1/4 Miles
2,200 Meters	= 1-3/8 Miles
2,400 Meters	= 1-1/2 Miles
2,600 Meters	= 1-5/8 Miles
3,000 Meters	= 1-7/8 Miles
3,200 Meters	= 2 Miles
3,600 Meters	= 2-1/4 Miles
4,800 Meters	= 3 Miles

(4) Workouts.

(a) Requirements. A horse shall not start unless it has participated in an official race or has an approved timed workout satisfactory to the stewards. The workout must have occurred at a pari-mutuel or Commission recognized facility within the previous 30 days. A horse which has not started for a period of 60 days or more shall be ineligible to race until it has completed a timed workout approved by the stewards prior to the day of the race in which the horse is entered. The association may impose more stringent workout requirements.

(b) Identification. The owner, trainer or rider shall be required to identify the horse and the distance the horse is to be worked and the point on the track where the workout will start.

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

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

(5) Horses ineligible.

(a) A horse is ineligible to start in a race when:

1. It is not stabled on the grounds of the association or present by the time established by the Commission;
2. Its breed registration certificate is not on file with the racing secretary or horse identifier; unless the racing secretary has submitted the certificate to the appropriate breed registry for correction;
3. It is not fully identified and tattooed on the inside of the upper lip, 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 ~~a disqualified person~~ or ~~a horse is~~ under the direct or indirect training or management of a ~~disqualified person~~; **who for any reason is ineligible to be licensed to participate in this jurisdiction.**
6. It is wholly or partially owned by ~~the spouse of a disqualified person~~ or ~~a horse is~~ under the direct or indirect management of the spouse of a ~~disqualified person~~ **who for any reason is ineligible to be licensed or participate in this jurisdiction**, in such cases, it being presumed that the ~~disqualified person~~ **who for any reason is ineligible to be licensed or participate in this jurisdiction** and spouse constitute a single financial entity with respect to the horse, which presumption may be rebutted;
7. The stakes or entrance money for the horse has not been paid, in accordance with the conditions of the race; except with the approval of the Racing Secretary;
8. The losing jockey mount fee is not on deposit with the horsemen's bookkeeper; except with the approval of the Racing Secretary;
9. Its name appears on the starter's list, paddock judge's list, stewards' list or veterinarian's list;
10. It is a first time starter and has not been approved to start by the starter;
11. It is owned in whole or in part by an undisclosed person or interest;
12. It lacks sufficient official published workouts or race past performance(s);

13. It has been entered in a stakes race and has subsequently been transferred with its engagements, unless the racing secretary has been notified of such prior to the start;
14. It is subject to a lien that has not been approved by the stewards and filed with the horsemen's bookkeeper;
15. It is subject to a lease not filed with the stewards;
16. It is not in sound racing condition;
17. It has had a surgical neurectomy performed on a heel nerve, which has not been approved by the official veterinarian;
18. It has been trachea tubed to artificially assist breathing;
19. It has been blocked with alcohol or otherwise drugged or surgically denerved to desensitize the nerves above the ankle;
20. It has impaired eyesight in both eyes;
21. It is barred or suspended in any recognized jurisdiction;
22. It does not meet the eligibility conditions of the race;
23. Its owner or lessor is in arrears for any stakes fees, except with approval of the racing secretary;
24. Its owner(s), lessor(s) and/or trainer have not completed the licensing procedures required by the Commission;
25. It is by an unknown sire or out of an unknown mare; or
26. There is no current negative Coggins test certificate for Equine Infectious Anemia on file.
27. If a thoroughbred, it has shoes (racing plates) which have toe grabs with a height greater than two millimeters, bends, jar caulks, stickers, or any other traction device on the front hooves while racing or training on all surfaces.
28. A filly or mare may not be entered in a claiming race when it is pregnant, unless before the time of entry the owner deposits with the racing secretary a signed agreement whereby the owner at the time of entry provides the successful claimant without cost, protest or fee of any kind, a valid stallion service certificate covering the breeding of the mare.

29. Notwithstanding 205 CMR 4.11(5)(a)(28) a pregnant mare may not be entered in a race if she is beyond 120 days of gestation.

30. It is not registered with the ARCI or its designee.

(6) Running of the Race.

(a) Equipment.

1. All riding crops are subject to inspection and approval by the stewards and the clerk of scales.

a. 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 eight ounces.

ii. Maximum length, including flap of 30 inches.

iii. Minimum diameter of the shaft of three-eighths inch

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.

b. 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 one 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 seven inches of the end of the shaft.

v. Shock absorbing characteristics similar to those the contact area of the shaft.

2. No bridle shall exceed two pounds.

3. A horse's tongue may be tied down with clean bandages, gauze or tongue strap.

4. Permission for any change of reported equipment from that which a horse carried in its last previous race, can be obtained only from the Stewards and must be obtained before the closing of entries for the race in which the horse is to run with changed equipment.

5. Permission for a horse to add blinkers to its equipment or to discontinue the use of them must be approved by the Starter before being granted by the Stewards.



(b) Racing Numbers.

1. Each horse shall carry a conspicuous saddle cloth number corresponding to the official number given that horse on the official program.
2. 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.
3. Each horse in the mutuel field shall carry a separate number or may carry the same number with a distinguishing letter following the number.

(c) Jockey Requirements.

1. Jockeys shall report to the jockeys' quarters at the time designated by the association. 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.
2. 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 an association security guard.
3. 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, an owner or trainer for whom the jockey is riding or a representative of the regular news media, 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.
4. The clerk of scales shall weigh out jockeys for their respective mounts not more than 30 minutes before post time for each race.
5. Only valets employed by the association shall assist jockeys in weighing out.
6. A jockey must wear a safety vest at all times when mounted. The safety vest must comply with one of the following minimum standards: British Equestrian Trade Association (BETA):2000 Level 1; Euro Norm (EN) 13158:2000 Level 1; American Society for Testing and Materials (ASTM) F2681-08 or F1937; Shoe and Allied Trade Research Association (SATRA) Jockey Vest DocM6 Issue 3; or Australian Racing Board (ARB) Standard 1.1998.
7. A jockey must wear a properly secured safety helmet at all times while mounted. The helmet must comply with one of the following minimum safety standards: American

Society for Testing and Materials (ASTM 1163); UK Standards (EN-384 and PAS-015); Australian/New Zealand Standard (AS/NZ 3838).

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

9. It is the sole responsibility of jockey to ensure they are using the proper equipment and the equipment meets the required safety standards in 205 CMR 4.11(6)(c).

10. Weighing out

a. A jockey's weight shall include his or her clothing, boots, saddle and its attachments and any other equipment except the bridle, bit, blinkers, goggles, number cloth, and safety equipment including helmet, vest, over-girth, reins and breast collar.

b. Upon Stewards approval, jockeys may be allowed up to three pounds more than published weights to account for inclement weather clothing and equipment.

11. Seven pounds is the limit of overweight any horse is permitted to carry.

12. 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.

(d) Paddock to Post.

1. 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. If a horse is so excused from parading and is led to the post he or she must pass over the same route as that followed by the parade.

2. After the horses enter the track, no jockey may dismount nor entrust his or her horse to the care of an attendant unless, because of accident occurring to the jockey, the horse or the equipment, and with the prior consent of the starter. During any delay during which a jockey is permitted to dismount, all other jockeys may dismount and others may attend their horses. After the horses enter the track, only the jockey, an assistant starter, the official veterinarian, the racing veterinarian or an outrider or pony rider may touch the horse before the start of the race.

3. If a jockey is injured on the way to the post, the horse may 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.

4. 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.

5. Horses shall arrive at the starting post in post position order.
6. In case of accident to a jockey or his or her mount or equipment, the stewards or the starter may permit the jockey to dismount and the horse to be cared for during the delay, and may permit all jockeys to dismount and all horses to be attended to during the delay.
7. If a jockey is thrown on the way from the paddock to the post, the horse must be remounted, return to the point where the jockey was thrown 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.
8. 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.
9. No person shall willfully delay the arrival of a horse at the post.
10. The starter shall load horses into the starting gate in any order deemed necessary to ensure a safe and fair start. Only the jockey, the racing veterinarian, the starter or an assistant starter shall handle a horse.
11. Every horse must be saddled in the paddock.

(e) Post to Finish.

1. The Start.

- a. The starter is responsible for assuring that each participant receives a fair start.
- 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 such a horse a non-starter.
- c. Should a horse, not scratched prior to the start, not be in the starting gate stall thereby causing it to be left when the starter dispatches the field, the stewards shall declare the horse a non-starter.
- 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 one or more pari-mutuel pools or declare a no contest and refund all wagers except as otherwise provided in the rules involving multi-race wagers.

## 2. Interference, Jostling or Striking.

- a. A jockey shall not ride carelessly or willfully so as to permit his or her mount to interfere with, impede or intimidate any other horse in the race.
- b. No jockey shall carelessly or willfully jostle, strike or touch another jockey or another jockey's horse or equipment
- c. No jockey shall unnecessarily cause his or her horse to shorten its stride so as to give the appearance of having suffered a foul.

## 3. Maintaining a Straight Course.

- a. When the way is clear in a race, a horse may be ridden to any part of the course, but if any horse swerves, or is ridden to either side, so as to interfere with, impede or intimidate any other horse, it is a foul.
- b. 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.
- c. If the stewards determine the foul was intentional, or due to careless riding, they may fine or suspend the guilty jockey.
- d. In a straightaway race, every horse must maintain position as nearly as possible in the lane in which it starts. If a horse is ridden, drifts or swerves out of its lane in such a manner that it interferes with, impedes or intimidates another horse, it is a foul and may result in the disqualification of the offending horse.

## 4. Disqualification.

- a. When the stewards determine that a horse shall be disqualified for interference, they may place the offending horse behind such horses as in their judgment it interfered with, or they may place it last.
- 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. 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 205 CMR 4.00 and is sufficient grounds for the stewards to scratch or disqualify the horse.
- d. The stewards may determine that a horse shall be unplaced for the purpose of purse distribution and time trial qualification.

5. 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

6. Horses Shall be Ridden Out. All horses shall be ridden out in every race. A jockey shall not ease up or coast to the finish, without adequate cause, even if the horse has no apparent chance to win prize money. A jockey shall give a best effort during a race.

7. Use of Riding Crops.

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 or her best efforts to win.

b. In all races where a jockey will ride without a riding crop, an announcement of such fact shall be printed in the official program.

c. No electrical or mechanical device or other expedient designed to increase or retard the speed of a horse, other than the ordinary riding crop approved, shall be possessed by anyone, or applied by anyone to the horse at any time on the grounds of the association during the meeting, whether in a race or otherwise.

d. Riding crops shall not be used on two-year-old horses before April 1<sup>st</sup> of each year.

e. The riding crop shall only be used for safety, correction and encouragement.

f. All riders should comply with the following when using the riding crop:

i. Showing the horse the riding crop and giving it time to respond before hitting it.

ii. Having used the riding crop, giving the horse a chance to respond before using it again.

iii. Using the riding crop in rhythm with the horses stride.

g. Prohibited uses of the riding crop include, but are not limited to, striking a horse:

i. 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;

ii. during the post parade or after the finish of the race except when necessary to control the horse;

iii. excessively or brutally causing welts or breaks in the skin;

- iv. when the horse is clearly out of the race or has obtained its maximum placing;
  - v. persistently even though the horse is showing no response under the riding crop; or
  - vi. striking another rider or horse.
- h. 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.
- i. 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 such instructions.

#### 8. Order of Finish

- a. The official order of finish shall be decided by the stewards with the aid the photo finish system, and in the absence of the photo finish film record, the video replay. The photo finish and video replay are only aids to the stewards' decision. The decision of the stewards shall be final in all cases.
- b. The nose of the horse shall determine the placement of the horse in relationship to other horses in the race.

#### 9. 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 place designated by the stewards 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.

#### 10. 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.

#### 11. Weighing In.

- a. A jockey shall weigh in at no less than the same weight at which he or she weighed out, and if under that weight, and after consideration of mitigating circumstances by the board of stewards, his or her mount shall be disqualified from any portion of the purse money.

b. In the event of such disqualification, all monies wagered on the horse shall be refunded unless the race has been declared official.

c. A jockey's weight shall include his or her clothing, boots, saddle and its attachments and any other equipment except the bridle, bit, blinkers, goggles, number cloth and safety equipment including helmet, vest, over-girth, reins and breast collar.

d. Upon approval of the stewards, the jockeys may be allowed up to three pounds more than published weights to account for 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.

## 12. 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 that 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 that cannot be divided, the question shall be determined by lot by the stewards.

## (7) Protests, Objections and Inquiries

### (a) Stewards to Inquire.

1. The stewards shall take cognizance of foul riding and, upon their own motion or that of any racing official or person empowered by 205 CMR 4.00 to object or complain, shall make diligent inquiry or investigation into such objection or complaint when properly received.

2. In determining the extent of disqualification, the stewards in their discretion may:

a. declare null and void a track record set or equaled by a disqualified horse, or any horses coupled with it as an entry;

b. 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

c. 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.

(b) Race Objections.

1. 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.

2. An objection following the running of any race must be filed before the race is declared official, whether all or some riders are required to weigh in, or the use of a fast official procedure is permitted.

3. The stewards shall make all findings of fact as to all matters occurring during and incident to the running of a race; shall determine all objections and inquiries, and shall determine the extent of disqualification, if any, of horses in the race. Such findings of fact and determinations shall be final.

4. In the case of disqualification the Stewards shall immediately make public the reason for the disqualification and the same shall be announced over the public address system.

(c) Prior Objections.

1. Objections 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 one hour prior to post time for the first race on the day which the questioned horse is entered. Any such objection shall set forth the specific reason or grounds for the objection in such detail so as to establish probable cause for the objection. The stewards upon their own motion may consider an objection until such time as the horse becomes a starter.

2. An objection to a horse which is entered in a race may be made on, but not limited to, the following grounds or reasons:

a. A misstatement, error or omission in the entry under which a horse is to run;

b. the horse that is entered to run is not the horse it is represented to be at the time of entry, or the age was erroneously given;

c. the horse is not qualified to enter under the conditions specified for the race, or the allowances are improperly claimed or not entitled the horse, or the weight to be carried is incorrect under the conditions of the race;

d. 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 205 CMR 4.00; or



e. the horse was entered without regard to a lien filed previously with the racing secretary.

3. The stewards may scratch from the race any horse that is the subject of an objection if they have reasonable cause to believe that the objection is valid.

(d) Protests.

1. A protest against any horse that has started in a race shall be made to the stewards in writing, signed by the protestor, within 72 hours of the race exclusive of non-racing days. If the incident upon which the protest is based occurs within the last two days of the meeting, such protest may be filed with the Commission within 72 hours exclusive of Saturdays, Sundays or official holidays. Any such protest shall set forth the specific reason or reasons for the protest in such detail as to establish probable cause for the protest.

2. A protest may be made on any of the following grounds:

- a. any grounds for objection as set forth in this chapter;
- b. the order of finish as officially determined by the stewards was incorrect due to oversight or errors in the numbers of the horses that started the race;
- c. a jockey, trainer, owner or lessor was ineligible to participate in racing as provided in 205 CMR 4.00;
- d. the weight carried by a horse was improper, by reason of fraud or willful misconduct; or
- e. an unfair advantage was gained in violation of the rules.

3. Notwithstanding any other provision in this article, 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 verifiable.

4. No person shall file any objection or protest knowing the same to be inaccurate, false, untruthful or frivolous.

5. 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 such purse, award or prize, the stewards or the Commission may order such 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.

#### **4.12: Forfeitures and Suspensions**

(1) No racing official other than the Stewards ~~and the Starter~~ shall have the right to impose a forfeiture or suspension.

(2) The Stewards may not rescind a forfeiture, except with the approval of the Commission.

(3) A racing official imposing a forfeiture or suspension shall report it promptly to the Gaming Commission in writing.

(4) All forfeitures shall be paid to the Massachusetts Gaming Commission within 48 hours after imposition.

(5) Any official, owner, trainer or any person licensed by the Massachusetts Gaming Commission who shall obtain food, feed, shelter, drugs, transportation, services for horses, veterinary services or supplies for himself or herself or others whether they be licensed or not, and fails to pay the fair market value to the person or persons from whom said services or supplies are obtained may be guilty of conduct detrimental to the best interest of racing and may be suspended at the discretion of the Stewards or the Commission, however, neither the Association nor the Massachusetts Gaming Commission shall be obligated to collect debts from horsemen or other personnel licensed by the Commission.

(6) 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 such entry; except that, if the license of a jockey has been suspended for a routine riding offense, the stewards may waive this rule.

(7) Suspensions shall be for consecutive calendar days.

#### **4.13: General Rules**

(1) The definitions and interpretations of racing terms, heretofore set forth as well as the Foreword are to be considered in connection with 205 CMR 4.00 and as part of them.

(2) All owners and trainers of horses and their stable employees are subject to M.G.L. c.128A and 205 CMR 4.00 immediately upon acceptance and occupancy of stabling accommodations from or approved by an Association or upon making entry to run on its track.

(3) Owners, trainers and stable employees shall abide by M.G.L. c.128A and 205 CMR 4.00 and accept the decision of the Stewards on any and all questions to which their authority extends, subject to their right of appeal to the Commission.

(4) Every person participating in and every patron of a licensed Race Meeting shall abide by M.G.L. c.128A and 205 CMR 4.00, and accept the Stewards' decisions on any and all questions to which their authority extends, subject to the right of appeal to the Commission.

(5) Safety Equipment

(a) Any person mounted on a horse or stable pony on association grounds must wear a properly secured safety helmet at all times. Additionally, all members of the starting gate crew must adhere to this regulation at all times while performing their duties or handling a horse. For the purpose of 205 CMR 4.13(5)(a), a member of the starting gate 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: American Society for Testing and Materials (ASTM 1163); UK Standards (EN-1384 and PAS-015); or Australian/New Zealand Standard (AS/NZ 3838).

(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 205 CMR 4.13(5)(b), 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: British Equestrian Trade Association (BETA):2000 Level 1; Euro Norm (EN) 13158:2000 Level 1; American Society for Testing and Materials (ASTM) F2681-08 or F1937; Shoe and Allied Trade Research Association (SATRA) Jockey Vest Document M6 Issue 3; or 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.

(6) No person shall use improper, profane or indecent language to a racing official.

(7) No person shall in any manner, or at any time, disturb the peace or make himself or herself obnoxious on the grounds of an Association.

(8) No person shall make a handbook or a foreign book on the grounds of an Association.

(9) No person shall solicit for or bet from a handbook or foreign book on the grounds of an Association.

(10) No person shall make a bet with a handbook or foreign book on the grounds of an Association.

(11) Any person, who participates in an unrecognized meeting anywhere, either as a racing official or as an owner, trainer or jockey, may be adjudged guilty of conduct detrimental to racing.

(12) No person or horse ruled off, or under suspension by any recognized turf authority, trotting association included, shall be admitted to the grounds of any Association. (For exception *see* 205 CMR 4.15(12).)

(13) No person shall be allowed in the Steward's stand unless previous permission is obtained from the Stewards.

(14) Any person who has been convicted by any court anywhere for illegal possession, sale or giving away of narcotics may be ruled off.

(15) Any person who has been arrested and/or charged with a violation of the law may be suspended until such time as said charge has been adjudged.

(16) If any owner, trainer, jockey, stable employee, or other person solicits bets from the public by correspondence or other methods, to be made on any horse which is to run on a track in Massachusetts, such person or persons shall be ruled off.

(17) When a person is ruled off a course or suspended, every horse owned in whole or in part by him or her shall be ineligible to be entered or to start in any race until said horse has been reinstated either by the rescinding of his or her owner's penalty or his or her transfer through *bona fide* sale to an ownership acceptable to the Stewards.

(18) When a person is ruled off a course or suspended, any horse which is under his or her care, management, training or superintendence shall not be qualified to be entered or to start in any race until said horse has been reinstated by the rescinding of said person's penalty or by the placement of the horse in the hand of a licensed trainer and the approval of the transfer by the Stewards.

(19) When a person is ruled off a course or suspended, he or she shall not be qualified, whether acting as agent or otherwise to subscribe for or to enter or run any horse in any race either in his or her own name or in that of any other person until the rescinding of that person's penalty.

(20) Any horse that has been the subject of fraudulent practice may be disqualified.

(21) When a person is ruled off for a fraudulent practice in relation to a particular horse, wholly or partly belonging to him or her, he or she shall return all money or prizes that such horse has fraudulently won.

(22) Violators of any rule will be subject to ejection from the grounds, and/or to forfeiture, suspension or ruling off.

(23) No horse will be allowed at a track and no horse shall be entered or permitted to start unless a current, valid health certificate showing that said horse has been examined and found to be free from symptoms of any infections or communicable disease, is on file. The Association conducting the racing meeting is responsible for compliance with 205 CMR 4.13(23).

(24) The Stewards may suspend for no greater period than 180 days anyone whom they have authority to supervise, or they may impose a forfeiture, not exceeding \$3,000.00. All such suspensions and forfeitures must be reported to the Commission. If the punishment so imposed is not in the opinion of the Stewards sufficient, they shall so report to the Commission.

(25) Complaints against a racing official (other than a Steward) or his or her assistant shall be made to the Stewards in writing and be signed by the complainant. Complaints against a Steward shall be made in writing to the Commission and be signed by the complainant.

(26) When a hearing is to be held by the Board of Stewards, the person or persons involved must be properly notified and given the opportunity to hear all of the evidence presented against them. If any summoned or notified party shall fail to appear, an order or ruling may be made against them by default.

(27) Every racing Association, the Commission or the Stewards investigating for violations of M.G.L. c.128A or the 205 CMR 4.00 adopted by the Commission shall have the right to permit persons authorized by any of them to search the person, or enter and search the buildings, stables, rooms, vehicles or other places within the grounds of the association, or at other places where horses which are eligible to race are kept together with the personal property and effects contained therein. Every licensed person or person permitted to pursue his or her occupation or employment within the grounds of any association by accepting his or her license or such permission does thereby irrevocably consent to such search as aforesaid and waive and release all claims or possible actions for damages that he or she may have by virtue of any action taken under 205 CMR 4.00.

(28) No person shall make false or misleading statements to the Stewards.

(29) No licensee or other person under the jurisdiction of the Commission shall subject or permit any animal under his or her control, custody or supervision to be subjected to or to incur any form of cruelty, mistreatment, neglect or abuse or abandon, injure, maim or kill or administer any noxious substance to or deprive any animal of necessary care or sustenance, shelter or veterinary care.

#### **4.14: Handicapper**

(1) The Handicapper, who may be the Racing Secretary, shall assign the weights to be carried by each horse in the handicap.

(2) The Handicapper shall append to the weights for every handicap the day and hour from which winners will be liable to weight penalty.

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

(4) In case of omission, through error, of the name or weight of a horse duly entered, the Handicapper shall rectify the omission.

## **4.15: Jockey**

### (1) Eligibility

- (a) No person under 18 years of age shall be licensed by the Commission as a jockey, except persons who have been licensed by this or other recognized Commission prior to the date of adoption of this rule.
- (b) A jockey shall pass a physical examination given within the previous twelve months by a licensed physician affirming fitness to participate as a jockey. The stewards may require that any jockey be reexamined and may refuse to allow any jockey to ride pending completion of such examination.
- (c) An applicant shall show competence by prior licensing and the demonstration of riding ability, which may include participation in up to five races with the prior approval of the stewards with the consideration of the recommendations from the starter, the head outrider, and the designated representatives of the jockeys and the horsemen at the track. The demonstration of riding ability is defined at a minimum of:
  - 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.

### (2) Foreign Jockeys

Upon making an application for a license in this jurisdiction, a jockey from a foreign country shall declare that he/she is a holder of a valid license in his/her country and currently not under suspension. To facilitate this process, the jockey shall present a declaration sheet in a language recognized in this jurisdiction to the Commission.

### (3) Jockey Responsibility

- (2a) All jockeys shall faithfully fulfill all engagements in respect to racing.
- (3b) In riding a race a jockey must be neat in appearance. All riders must wear a protective helmet and safety vest of a type in compliance with 205 CMR 4.11(6)(c)(6-8); jacket of silk, satin or waterproof, white or light colored breeches, and top boots.
- (c) 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.
- (d) A jockey shall not have a valet attendant except one provided and compensated by the association.

- (e) 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.
- (f) A jockey shall have no more than one jockey agent.
- (g) 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.

~~(4) A jockey must wear the colors of the owner or owners of the horse he or she is riding (except by special permission of the Stewards and a number on his or her right arm corresponding to the number of the horse in the official program.~~

(54) A jockey shall not be allowed to smoke in public while wearing racing colors.

### (5) Jockey Betting

(6a) No jockey in racing attire shall enter the betting area.

(7b) A jockey shall only be allowed to wager on a race in which he or she is riding. A jockey shall only be allowed to wager if:

- (a) 1. the owner or trainer of the horse which the jockey is riding makes the wager for the jockey;
- (b) 2. the jockey only wagers on his or her own mount to win or finish first in combination with other horses in multiple type wagers; and
- (c) 3. records of such wagers are kept and available for presentation upon request by the stewards.

(86) A jockey shall not compete in any race against a horse which is trained by the jockey's spouse.

(97) 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 his or her mount after naming a rider at the time of the draw, the stewards may require a double jockey fee to be paid. The fee to be paid is equal to that earned by the jockey who rode the horse. 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.

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

(119) A jockey who is serving a suspension of 10 days or less may be permitted to ride in a designated race during the suspension if the following apply:

- (a) The race has been specified as a designated race by the racing secretary of the association before the beginning of the race meeting of the association.

(b) The race has been approved as a designated race by the board of stewards officiating at the race meeting.

(c) The jockey is named to ride in the designated race no later than at the time set for the close of entries for the race.

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

(e) Reciprocity of this rule shall be at the stewards' sole discretion and shall apply only to those states which have also adopted the designated race rule or its equivalent.

(120) A jockey temporarily suspended may be permitted to exercise or gallop horses during the morning hours and to lodge on the grounds of the association at night. In the discretion of the Stewards his or her badge may be taken up and they may refuse him or her admission to the grounds during racing hours.

(131) A forfeiture must be paid by the jockey himself or herself and any other person paying it shall be subject to punishment.

~~(14) Every jockey may have one agent and no more. All engagements to ride, other than those for his or her contract employer, shall be made by himself or herself, his or her agent or his or her employer.~~

#### **4.16: Jockey Agents**

~~(1) Each jockey agent must obtain a license from the Commission.~~

~~(2) Jockey Agents will pay only one license fee in any calendar year.~~

~~(3) The Stewards may permit an applicant to act pending decision of his or her application for a license.~~

~~(4) A jockey agent may represent up to two jockeys and one apprentice, providing the conditions justify and upon approval of the Stewards.~~

~~(5) No jockey agent shall make or assist in the making of any engagement for any rider other than those that he or she is licensed to represent.~~

~~(6) If, for good reasons, a jockey agent is short of his or her permissible quota of jockeys and wishes to take on the task of making engagements for a rider not named in his or her license, he or she must obtain permission from the Stewards and the Commission before making any such engagements.~~

~~(7) If any jockey agent gives up the making of engagements for any rider he or she shall immediately notify the Stewards, the Commission and the Racing Secretary; and he or she shall~~



also turn over to the Stewards a list of any unfilled engagements he or she may have made for that rider.

(8) A jockey agent may charge a jockey or apprentice for each mount obtained by him or her, but shall receive no recompense for engagements made by the rider himself or herself or by his or her contract employer.

(9) Each jockey agent shall keep, on a form provided by the Association a record by races of all engagements made by him or her or by others, for the jockeys he or she is handling. Calls shall be numbered in the order of their priority whenever more than one is given for any rider in any race. This record must be kept up to date and held ready at all times for inspection by the Stewards or the Racing Secretary.

(10) No person other than a jockey agent in good standing shall make engagements for an apprentice jockey or jockey. However, a jockey not represented by an agent may make his or her own engagements.

(11) The Stewards in the light of the records submitted by the jockey agent will adjust all rival claims for the service of a rider and first call shall have priority.

(12) A jockey agent shall not give to anyone directly or indirectly, any information nor advice, or engage in the practice commonly known as "touting," for the purpose of influencing any person, or that would tend to do so, in the making of a wager on the result of any race.

(13) Any agent who falsifies his or her record shall be penalized by the revocation of his or her license and any agent penalized shall be ineligible for another license for a term of 12 months from the day of the revocation.

(14) Jockey agents will be called upon to explain rival claims for any mount or for any rider and inability to satisfy the Stewards that the rival claim arose through honest *bona fide* error shall be considered a falsification of records.

(15) Jockey agents shall not be allowed in the paddock at any time.

(16) Under no circumstances shall a jockey agent be permitted within the saddling enclosure during racing hours nor shall said agent have access to the jockey quarters at any time; nor said agent be allowed on the track proper at the conclusion of any race run; nor shall said agent communicate with any jockey during racing hours.

## (1) Eligibility

An applicant for a license as a jockey agent shall:

- (a) 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
- (b) 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:

1. a written examination or
2. an interview or oral examination.

(c) Applicants not previously licensed as a jockey agent shall be required to pass a written and oral examination.

## (2) Limit on Contracts

A jockey agent may serve as agent for no more than two jockeys and one apprentice jockey.

## (3) Responsibilities

(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, such records being subject to examination by the stewards at any time.

## (4) Prohibited Areas

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

## (5) 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.

### **4.17: Jockey Apprentices**

~~(1) Any person 18 years or older, who has never previously been licensed as a jockey in a country, and who has of his or her own free will and if under age, with the written consent to his or her parents or guardian, bound himself or herself to an owner or trainer for a term of not less than three nor more than five years (subject to written extension if made for less than five years) by written contract approved by and filed with the Massachusetts Gaming Commission, and after at least one year of service with a racing stable, may claim in all overnight races, except handicaps, the following allowances:~~

~~(a) An apprentice shall ride with a five pound allowance beginning with his or her first mount. The apprentice shall continue to ride with this allowance for one full year from the date of his or her fifth winning mount. If after riding one full year from the date of his or her~~

fifth winning mount, the apprentice has failed to ride a total of 40 winners from the date of his or her first winning mount, he or she shall continue to ride with a five pound weight allowance for one more year from the date of his or her fifth winning mount or until he/she has ridden a total of 40 winners, whichever comes first.

(b) After the completion of conditions above, for one year the apprentice may claim three pounds when riding horses owned by his or her original contract employer provided the contract has not been permanently transferred or sold since he or she rode his or her first winner.

(2) Apprentice contracts entered into in Massachusetts must be made on forms supplied by the Commission and must be accompanied by birth certificate. An exact copy of the original contract shall be filed permanently with the Commission.

(3) No apprentice shall be permitted to acquire his or her own contract.

(4) If, by mutual consent between the contract holder and the apprentice and his or her parents or guardian, if under age, the contract is terminated before the expiration date, the contract is then null and void and cannot be transferred to another owner or trainer.

(5) If a person has been licensed he or she shall be allowed one contract only during his or her lifetime. However, this rule shall not prevent the transfer of the contract to another owner or trainer provided said transfer has the consent of the apprentice, and if under age, his or her parents or guardian, and the contract holder. All extensions of apprentice contracts shall be subject to the conditions of 205 CMR 4.17(6).

(6) Under exceptional circumstances, such as inability of an apprentice to ride because of service in the armed forces of the United States, personal injuries in the conduct of his or her duty, restrictions on racing, or other valid reasons which interfere with the allowance of one year from riding his or her fifth winner or the two year period in riding 40 winners, the Commission may extend the terms of the contract and the allowances provided by the 205 CMR 4.00. In order to qualify for an extension of the apprentice allowance an apprentice must have been rendered unable to ride for a period of not less than seven consecutive days during the period in which he/she was entitled to an apprentice allowance.

(7) The Massachusetts Gaming Commission will recognize an extension of time on an apprentice contract approved by another Gaming or Racing Commission.

(8) Allowances under 205 CMR 4.17 must be claimed at the time of entry and shall not be abandoned except by the consent of the Stewards.

(9) All apprentice contracts, whenever entered into must be registered with the Commission.

(10) If an apprentice contract is transferred it must be signed by the transferor and transferee, accepted by the apprentice and, if under age, by his or her parents or guardian, and must be registered with the Commission by both the transferor and transferee.

~~(11) The original apprentice jockey contract shall be kept in full force and effect throughout its contract period after said apprentice has accepted one or more mounts. Any and all amendments to said contract and all leases must be made a part of and either added to or attached to the copies in the possession of the parties and a like copy of said amendments and/or leases sent to the Commission where the original contract is filed.~~

~~(12) No owner or trainer shall be allowed to enter into a contract in Massachusetts with an apprentice jockey unless he or she is in control or possession of such a stable of horses as would, in the opinion of the Stewards, warrant the employment of an apprentice.~~

~~(13) No apprentice jockey will be licensed unless his or her contract employer is in control or possession of such a stable of horses as would, in the opinion of the Stewards, warrant his or her employment as an apprentice.~~

~~(14) An apprentice jockey shall not be permitted to ride for anyone other than his or her contract employer, without said employer's consent.~~

~~(15) An apprentice jockey may be granted an apprentice certificate issued by the Stewards, in lieu of a traditional apprentice contract. The apprentice certificate shall grant an apprentice all allowances and conditions that are granted to an apprentice that is under contract.~~

~~(16) A licensed apprentice who loses his or her apprentice allowance for any reason shall obtain a jockey license before being permitted to ride again.~~

(1) Eligibility

(a) The eligibility conditions set forth in 205 CMR 4.15(1) shall apply.

(b) 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.

(c) An applicant with an approved apprentice certificate may be licensed as an apprentice jockey.

(2) 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 Commission where it was issued.

(3) An apprentice jockey may ride with a five pound weight allowance beginning with his/her first mount and for one full year from the date of his/her fifth winning mount. If after riding one year from the date of his/her fifth winning mount, the apprentice jockey has failed to ride a total of forty winners from the date of his/her first winning mount, he/she may continue to ride with a five pound weight allowance for one more year from the date of his/her fifth winning mount or until he/she 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. If an apprentice jockey is unable to ride for a period of fourteen consecutive days or more after the date of his/her fifth winning mount because of

service in national armed forces, enrollment in an institution of secondary or higher education, or because of physical disablement, the Commission may extend the time during which such apprentice weight allowance may be claimed for a period not to exceed the period such apprentice jockey was unable to ride. The Commission will take jurisdiction only on certificates which it has issued. All other requests for extensions shall be directed to the Commission that approved the apprentice certificate.

#### **4.18: Jockey Contracts (Repealed)**

~~No contract employer shall have any interest in the earnings of a jockey.~~

#### **4.19: Jockey Room Custodian**

~~(1) It shall be the duty of the Jockey Room Custodian to see to it that order, decorum and cleanliness are maintained in the jockey and scale rooms.~~

~~(2) The custodian shall assist the Clerk of the Scales in any way that official requires.~~

~~(3) The Commission shall see to it that no person, other than jockeys who have engagements for the day, racing officials, the Commission and the necessary jockey room attendants, is admitted to the jockey room after 12:00 Noon on a race day without consent of the Stewards for each time of entry.~~

~~(4) The Custodian shall oversee the care and storage of all racing colors.~~

~~(5) The Custodian shall oversee the jockey attendants and arrange their rotation among jockeys in the matter of weighing out.~~

~~(6) The Custodian shall see to it that no jockey attendant not licensed by the Association is permitted to assist any jockey at any time.~~

~~(7) The Custodian shall report to the Stewards any irregularities that occur in his or her province.~~

~~(8) The Custodian shall see to it that jockeys are neat in appearance and attired in keeping with the Rules when they leave the rooms to ride in a race.~~



## **Jockey Room Custodian**

### **(1) General Authority**

The jockey room custodian shall:

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

### **4.20: Licensee's Duties, Obligations, etc.**

The following sections 1-25 are effective until January 1, 2016:

(1) Before entering upon the discharge of their duties the following officials employed by the Association shall be licensed by the Commission; association stewards, racing secretaries, handicappers, starters, placing judges, timers/clockers, racing veterinarians, outriders, patrol judges, paddock judges, horse identifiers, clerks of scales, assistant starters, and such other persons as the Commission may designate from time to time because of their importance in the actual conduct of racing.

(2) No person under the age of 16 years shall be employed in or about the track of any association, except as may be permitted by the applicable laws of the Commonwealth of Massachusetts.

(3) It shall be the duty of each and every licensee of the Commission and the officers, officials, and employees of said licensee to observe and enforce 205 CMR 4.00 and the regulations from time to time adopted by said Commission. Any and all of 205 CMR 4.00 may be amended, altered, repealed or supplemented by new and additional rules and regulations, at the discretion of the Commission. Every license to hold a race meeting is granted upon the condition that the licensee therein named shall accept, observe and enforce 205 CMR 4.00, and any amendments or additions thereto.

(4) Each Association shall provide and equip a first aid room within its enclosure.

(5) Distance poles of all associations licensed by the Commission shall be standard color designations that are, namely:

1/4 Poles Red and White

1/8 Poles Green and White

1/16 Poles Black and White

(6) Each Association running a racing meeting shall keep a separate bank account to be known as the "Horsemen's Account" with at all times sufficient funds in such account to cover all monies due horsemen in regard to purses, stakes, rewards, claims and deposits. Withdrawals from this account shall be only for such purposes and said account shall at all times are subject to audit by the Commission.

(7) Members of the Commission and its representatives shall have the right to full and complete entry to any and all points of the grounds of the Association licensed to conduct horse racing in Massachusetts.

(8) Each Association conducting racing shall before publishing submit to the Commission, the conditions for all races it proposes to hold, together with the stake, purse or reward, all of which shall be subject to the approval of the Commission.

(9) Each Association shall install at the finish line at their track, and shall adequately maintain, two photo finish cameras, to be approved by the Commission, to automatically photograph the finish of races. The official photographer shall furnish promptly to the Commission a print of every photo finish.

(10) Each Association shall provide that no person shall be admitted to the stable area and test area unless he or she is wearing an identification badge issued to him or her by the Commission. Each person whose duties or occupation requires their presence in the stable area and test area shall wear his or her identification badge affixed to the outer clothing or otherwise, readily visible in plain view at all times, while in the stable area and other restricted areas. The Commission will hold the Association to strict accountability for full compliance with the provisions of 205 CMR 4.20(13).

(11) Any licensed person who allows another to use his or her license identification card or badge or any person who used the license identification card or badge of another person for the purpose of transferring any of the benefits pertaining thereto may be suspended, assessed a forfeiture, or both.

(12) No Association shall permit bets to be made on the grounds on any race run outside said grounds without permission of the Commission.

(13) No gambling device, other than permitted by law, shall be permitted on the grounds. Petty games of chance are prohibited.

(14) The Association shall choose the only attendants who will be permitted within the limits of 205 CMR 4.00, to:

- (a) assist a jockey after weighing out and until he or she leaves the paddock; and
- (b) assist a jockey in weighing in and until he or she arrives at the jockey room.

The Association shall pay such attendants for their services from an assessment collected from the jockeys. A system of rotation of attendants shall be maintained.

(15) During the term of disqualification of any participant in racing, it shall be the duty of the Association to see to it that the privileges of his or her admission and identification badges are revoked, and that he or she is kept out of the grounds unless otherwise permitted to enter under certain conditions and at certain times as may be provided for elsewhere in 205 CMR 4.00.

(16) Each Association licensed by the Commission shall police its grounds at all times in such a manner as to preclude the admission and confiscate the identification badge of any person in and around the stables not duly licensed or authorized by the Commission.

(17) Each Association shall furnish to the Commission the names and addresses of all persons ejected by the Association from its grounds, together with the offense or offenses alleged against them, and any other material information relating thereto.

(18) Any person ejected from the grounds of an Association, by said Association, shall be denied admission to said grounds until written permission for his or her re-entering has been obtained from the licensee association and written notification of such permission shall forthwith be filed with the Commission and approved by the Commission.

(19) A person ejected from the grounds of an Association licensed by the Commission shall be refused admission to the grounds of all other licensed Associations in Massachusetts until he or she has been permitted to re-enter the track where he or she was originally ejected in accordance with the procedure as provided for in 205 CMR 4.20(22).

(20) All portions of purse money shall be made available to the winners thereof 48 hours (Sunday excluded) following their winning.

(21) No percentage of winnings shall be deducted by an Association for itself or for another person, club, or body, unless at the request of the person to whom such winnings are payable and except that an Association may withhold from winnings any money due it.

(22) Each Association shall provide within its grounds an equipped office for the use and to be at the disposal of, the Commission and all its officials.

(23) No Association licensed by the Commission shall assign stable accommodations or accept the entry of any horse five years or older which has been in competition during the immediately preceding two calendar years and has failed to finish first, second or third and which has started at least eight times during the said two calendar years period on a licensed horse racing track. The Association may impose more stringent requirements.



(24) If the Pari-mutuel Manager is to be absent from the track for a complete racing program, the Association shall inform the Commission's Chief Pari-Mutuel Officer or his or her designee at least ½ hour before post time of the first race of the name of the person who will perform the duties of the Pari-mutuel Manager during his or her absence.

The following sections 1-4 are effective starting January 1, 2016. For regulations effective until January 1, 2016 see above sections 1-24:

#### (1) General Duty

- (a) An association, its officers, directors, officials and employees shall abide by and enforce the Act and the rules and orders of the Commission and stewards.
- (b) An association 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 association's proposal substantially satisfies the purpose of the requirement; and
  - 2. the exemption is in the best interests of the race horses, the racing industry and the citizens of this jurisdiction.

#### (2) Financial Requirements

##### (a) Insurer of the Race Meeting

- 1. Approval of a race meeting by the Commission does not establish the Commission as the insurer or guarantor of the safety or physical condition of the association's facilities or purse of any race.
- 2. An association shall agree to indemnify, save and hold harmless the Commission from any liability, if any, arising from unsafe conditions of association grounds and default in payment of purses.
- 3. An association shall provide the Commission with a certificate of liability insurance as required by the Commission.
- 4. An association shall maintain in an approved depository, those amounts deducted from the pari-mutuel handle for distribution for the purposes specified in the Act and Commission rules.
- 5. An association and its managing officers are jointly and severally responsible to ensure that the amounts retained from the pari-mutuel handle are distributed according to the Act and Commission rules and not otherwise.
- 6. An association and its managing officers shall ensure that all purse monies, disbursements and appropriate nomination race monies are available to make timely distribution in accordance with the Act, Commission rules, association rules and race conditions.

##### (b) Bond Requirements

- 1. An association shall file with the Commission a bond payable in an amount determined by the Commission for pari-mutuel racing not to exceed the financial

liability of the association permit throughout the race meeting for which the association permit is requested.

2. The bond shall be executed by the applicant and a surety company or companies authorized to do business in this jurisdiction, and conditioned upon the payment by the association licensee of all taxes and other monies due and payable pursuant to statutory provisions and all monies due from horsemen's accounts and payable, presentation of winning tickets, the licensee will distribute all sums due to the patrons of pari-mutuel pools.
3. The financial liabilities incurred by the association licensee in the form of real estate mortgages shall not be included in the determination of the bond amount.

### (c) Financial Reports

1. The Commission may require periodic audits to determine that the association has funds available to meet those distributions for the purposes required by the Act, Commission rules, the conditions and nomination race program of the race meeting and the obligations incurred in the daily operation of the race meeting.
2. An association shall file a copy of all tax returns, a balance sheet and a profit and loss statement.
3. An association shall file with the Commission an unaudited balance sheet and profit and loss statement as required by the Commission. Those submissions must be in a format which conforms with the requirements set out in the association license application.
4. An association shall file an annual audit with the Commission within 90 days after the association's fiscal year-end. The Commission, upon good cause shown, may extend the time for filing.

### (3) Facilities and Equipment

#### (a) Facilities for Patrons and Licensees

1. An association 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 law.
2. An association shall provide and maintain adequate restroom facilities for the patrons and licensees.
3. An association shall provide an adequate supply of free drinking water.
4. An association shall maintain all facilities on association grounds to ensure the safety and cleanliness of the facilities at all times.
5. The association shall provide a first aid facility that complies with Occupational Safety and Health Administration standards, be regularly serviced, inspected and updated, and include the following minimum features:
  - a. treatment capabilities to stabilize a rider physically and medically and monitor the rider's vital signs until the rider can be transported to an emergency care facility;
  - and

- b. HIPAA-compliant, detailed standards of care for riders.
- 6. An association shall provide a properly equipped to transport ambulance, staffed with at least one certified paramedic during training and two certified paramedics during racing hours. If the ambulance is being used to transport an individual, the association may not conduct a race, or allow horses with riders on the racetrack, until the ambulance is replaced.
- 7. An association shall provide mandatory orientation of racing emergency procedures for all emergency response personnel employed by or assigned as a result of a contract to the association grounds.
- 8. Unless otherwise approved by the Commission or the stewards, an ambulance shall follow the field at a safe distance during the running of races.
- 9. The ambulance must be parked at an entrance to the racing strip except when the ambulance is being used to transport an individual or when it is following the field during the running of a race.
- 10. An association shall provide adequate office space for the use of the 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.
- 11. An association shall promptly post Commission notices in places that can be easily viewed by patrons and licensees.

(b) Officials' Stands

An association shall provide adequate stands for officials to have a clear view of the racetrack. The location and design of the stands must be approved by the Commission.

(c) Audio and Visual Equipment

- 1. An association shall provide and maintain in good working order a communication system between the:
  - a. stewards;
  - b. racing office;
  - c. mutuels;
  - d. tote room;
  - e. jockeys' room;
  - f. weigh in scale;
  - g. saddling and holding paddocks;
  - h. test barn;
  - i. starting gate;
  - j. video control room;
  - k. clocker/timer;
  - l. placing and patrol judges;
  - m. human ambulance(s);
  - n. equine ambulance(s);

- o. veterinarian(s);
  - p. outrider(s)
  - q. track announcer;
  - r. track superintendent;
  - s. racing operations management;
  - t. security operations; and
  - u. other locations and persons designated by the Commission.
2. An association shall provide and maintain a public address system capable of clearly transmitting announcements to the patrons and to the stable area.
  3. An association shall provide two computerized video photofinish devices with mirror image to provide a computer-generated image of 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 photofinish devices must be approved by the Commission before their first use in a race. The association shall provide monitors for the display of the photofinish image in both the placing judges' and the stewards' stand. The association shall promptly post a computer-generated image of each photofinish for win, place or show in an area accessible to the public. On request by the Commission, the association shall provide, without cost, a print of a photofinish to the Commission. The association shall ensure that the computerized video photofinish devices are calibrated before the first day of each race meeting and at other times as required by the Commission. Photofinish records of each race shall be maintained by the association for not less than two years after the end of the race meeting, or such other period as may be requested by the stewards or the Commission.
  4. An association shall provide a videorecording 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.
  5. One camera, designated by the Commission, shall record the pre-race loading of all horses into the starting gate and shall continue to record them until the field is dispatched by the starter.
  6. One camera, designated by the Commission, shall record 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.
  7. The stewards may, at their discretion, direct the video camera operators to record the activities of any horses or persons handling horses prior to, during or following a race.
  8. Races must be recorded by at least three video cameras.
  9. An association shall, upon request, provide to the Commission, without cost, a copy of a video recording of a race.

10. Video recorded prior to, during and following each race shall be maintained by the association for not less than two years after the end of the race meeting, or such other period as may be requested by the stewards or the Commission.
11. An association shall provide a viewing room in which, on approval by the stewards, an owner, trainer, jockey or other interested individual may view a video recording of a race.
12. Following any race in which there is an inquiry or objection, the association shall display to the public on designated monitors the video replays of the incident in question which were utilized by the stewards in making their decision.

(d) Racetrack

1. The surface of a racetrack, including the cushion, subsurface and base, must be designed, constructed and maintained to provide for the safety of the jockeys and horses.
2. Prior to the first race meeting at an association racetrack, a licensed surveyor shall provide to the Commission for approval a certified report of the grade and measurement of the distances to be run.
3. Distances to be run shall be measured from the starting line at a distance three feet out from the inside rail.
4. Should any substantial changes be made to the configuration of the racetrack, a new surveyor's report must be provided to the Commission for approval prior to the resumption of racing on the reconfigured surface.
5. An association shall provide an adequate drainage system for the racetrack.
6. An association shall provide adequate equipment and personnel to maintain all track surfaces in a safe training and racing condition.

(e) Rails

1. Racetracks, including turf and training tracks, shall have inside and outside rails, including gap rails, designed, constructed and maintained to provide for the safety of jockeys and horses. The design and construction of rails must be approved by the Commission prior to the first race meeting at the track.
2. The top of the rail must be at least 38 inches but not more than 42 inches above the top of the cushion. The inside rail of the main track shall have no less than a 24-inch overhang with a continuous smooth cover.
3. All rails, except movable turf rails, must be constructed of materials designed to withstand the impact of a horse running at a gallop.

(f) Starting Gates

1. During racing hours, an association shall provide at least two operable padded starting gates, which have been approved by the Commission.
2. An association shall make at least one starting gate and qualified starting gate personnel available for schooling during designated training hours.



3. An association shall ensure that a sufficient number, as determined by the stewards, of assistant starters is available for gate schooling and for racing.
4. 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.
5. An association shall have standard operating procedures in place for the removal of the starting gate from the racing surface in a safe and timely manner. Such protocols shall include planning for situations where the primary mechanism fails as well as protocols for warning riders when a failure has occurred.

(g) Distance Markers

1. An association shall provide starting point markers and distance poles in a size and position that is clearly seen from the stewards' stand.
2. The starting point markers and distance poles must be marked as follows:
  - a. 1/4 poles - Red and white horizontal stripes
  - b. 1/8 poles - Green and white horizontal stripes
  - c. 1/16 poles - Black and white horizontal stripes

(h) Lighting

1. An association 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 video recording and photofinish equipment must be approved by the Commission.
2. An association shall provide adequate additional lighting in the stable area as required by the Commission.
3. If an association 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.

(i) Equine Ambulance

1. An association shall provide an equine ambulance staffed by trained personnel on association grounds on each day that the racetrack is open for racing or training.
2. The equine ambulance, its supplies and attendants and the operating procedures for the equine ambulance must be approved by the official veterinarian.
3. The ambulance must be properly ventilated and kept at an entrance to the racing strip when not in use.
4. The ambulance must be a covered vehicle that is low to the ground and large enough to accommodate a horse in distress. The ambulance must be able to:
  - a. navigate on the racetrack during all weather conditions; and
  - b. transport a horse off the association grounds.
5. The ambulance must be equipped with:
  - a. large, portable screens to shield a horse from public view;

- b. ramps to facilitate loading a horse;
  - c. adequate means of loading a horse that is down;
  - d. a rear door and a side door;
  - e. a padded interior;
  - f. a movable partition to initially provide more room to load a horse and to later restrict a horse's movement;
  - g. a shielded area for the person who is attending to the horse; and
  - h. an adequate area for the storage of water and veterinary drugs and equipment.
6. An association may not conduct a race unless an equine ambulance or an official veterinarian-approved substitute is readily available.

(j) Barns

1. An association shall provide barns containing a sufficient number of stalls to accommodate all horses entered to race on a given race day and all other horses approved to be on the grounds. The association's stable area configuration and facilities must be approved by the Commission.
2. An association 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.
3. An association shall ensure that each horse is stabled in an individual box stall with minimum dimensions of 10 by 10 feet.
4. An association shall provide an adequate area for the placement of manure removed from the stalls. Unless otherwise approved by the Commission, all manure must be removed from the stable area daily. The association shall ensure that refuse from the stalls and other refuse are kept separate.

(k) Test Barn

1. An association shall provide a test barn for taking specimens of urine, blood or other bodily substances or tissues from horses selected for testing.
2. The test barn, its supplies and attendants and the operating procedures must be approved by the official veterinarian.
3. The test barn must be equipped with:
  - a. a walk ring that is large enough to accommodate 6 horses;
  - b. at least 4 enclosed stalls that permit observation of the collection process and provide for the protection of collection personnel;
  - c. facilities and equipment for the collection, identification and storage of samples;
  - d. a minimum of two wash racks with hot and cold running water; and
  - e. clean water buckets for each horse.
4. An association shall limit access to the test barn to persons authorized by the official veterinarian. All entrances shall be locked or guarded at all times.

(l) Isolation Area

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

(m) Racetrack Members shall make certain that a practicing veterinarian is available for treatment at all times during Racing Periods and training hours.

(4) Operations

(a) Security

1. An association conducting a race meeting shall maintain security controls over its grounds. Security controls are subject to the approval of the Commission.
2. An association may establish a system or method of issuing credentials or passes to restrict access to its restricted areas or to ensure that all participants at its race meeting are licensed as required by these rules.
3. An association shall prevent access to and shall remove or cause to be removed from its restricted areas any person who is unlicensed, or who has not been issued a visitor's pass or other identifying credential, or whose presence in such restricted area is unauthorized.
4. During all times that horses are stabled on the grounds, an association shall provide continuous security in the stable area. An association shall require any person entering the stable area to display valid credentials issued by the Commission or a visitor's pass issued by the association. An association shall provide security fencing around the stable area in a manner that is approved by the Commission.
5. During all times that horses are stabled on the grounds, the chief of security for an association or his or her designee shall deliver a written daily report to the stewards' office regarding occurrences on association grounds requiring the attention of security personnel. The report must include the circumstances of the incident, the name of each individual involved, if known, and the resolution or recommended follow-up action, if any.

(b) Fire Prevention

1. An association shall develop and implement a program for fire prevention on association grounds. An association shall instruct employees working on association grounds of the procedures for fire prevention.
2. Not later than 5 days before the first day of a race meeting, an association shall deliver to the Commission a copy of the state or local fire marshal's certification regarding the association's compliance with fire safety regulations or the fire marshal's plan of corrections. The certification or plan must be based on an inspection of the association grounds conducted by the fire marshal not more than 30 days before the first day of a race meeting.
3. No person shall:
  - (a) smoke in stalls, feed rooms or under shed rows;



- (b) burn open fires or oil and gas lamps in the stable area;
- (c) leave unattended any electrical appliance that is plugged-in to an electrical outlet.
- (d) permit horses to come within reach of electrical outlets or cords;
- (e) store flammable materials such as cleaning fluids or solvents in the stable area; or
- (f) lock a stall which is occupied by a horse.

4. An association shall post a notice in the stable area which lists the prohibitions in 205 CMR 4.20(4)(b)(3).

(c) Insect and Rodent Control

An association and the licensees occupying the association's barn area shall cooperate in procedures to control insects, rodents or other hazards to horses or licensees.

(d) Performances

1. The hours of racing, the number of races per race day and the post time for the first race of each race day are subject to the approval of the Commission.
2. An association shall deliver to the Commission for approval a copy of the first condition book for a race meeting prior to publication. The association shall deliver to the Commission, upon publication, a copy of each subsequent condition book.

(e) Complaints

1. An association shall designate a location and provide personnel who shall be readily available to the public to provide or receive information.
2. An association shall promptly notify the Commission of a complaint regarding:
  - a. an alleged violation of law or a rule of the Commission;
  - b. an alleged violation of ordinances or statutes;
  - c. accidents or injuries; or
  - d. unsafe or unsanitary conditions for patrons, licensees or horses.
3. An association shall display and support a toll-free, anonymous tip line in both English and Spanish in one or more of the following locations: track kitchen, each barn in the stabling area and the receiving barn, as well as in the overnight sheets and the condition book.

(f) Ejection and Exclusion

1. An association shall immediately eject from the association grounds a person who is subject to such an exclusion order of the Commission or stewards and notify the Commission of the ejection.
2. An association may eject or exclude a person for any lawful reason. An association shall immediately notify the stewards and the Commission in writing of any person ejected or excluded by the association and the reasons for the ejection or exclusion.

(g) Access to records

The commission, or its duly authorized representatives, shall at reasonable times have access to the records and books of any licensee for the purpose of examining and checking the same,

including, but not limited to reports relative to: pari-mutuel wagering activity, racing office activities, the activities of racing officials during the course of their official duties, third-party pari-mutuel service providers/vendors, purse accounts, and horsemen's bookkeeper reports.

(h) Reporting of Wagering Anomalies.

1. Each racing licensee shall notify the Massachusetts Gaming Commission of any documents filed with, or any communication, report or investigation conducted by, the Thoroughbred Racing Protective Bureau (TRPB) or any state or federal regulatory agency that relates to the safety, integrity or security of the racing licensee, and its participants, or that would reasonably be deemed to affect public confidence in the racing licensee. Each racing licensee shall further send a copy of any TRPB or governmental communications, correspondence or reports relating to any such report or investigation to the Commission.
2. Each racing licensee shall promptly conduct an investigation of any and all suspected wagering anomalies related to racing conducted at its facility or related to a race imported to its facility for simulcast wagering, even if the licensee has not filed a report with an outside agency. If, after conducting its investigation, the racing licensee reasonably suspects that a wagering anomaly may have occurred, it shall notify the Massachusetts Gaming Commission, and shall promptly provide transactional data and video of the race to the Commission where reasonably requested.
3. Wagering anomalies include, but are not limited to, incidents such as:
  - a. Alleged past posting, cancel delay and other instances when wagering occurs after the horses have left the gate;
  - b. Off-shore or account wagering fraud;
  - c. Odds manipulation;
  - d. Manual merges;
  - e. Removal of an outlet from a wagering pool; or
  - f. Any other incident that might reasonably affect the public's confidence in the racing licensee's wagering pools including totalisator and data communications malfunctions.
4. All notices required to be given to the Massachusetts Gaming Commission under 205 CMR 4.20 shall be emailed or faxed to the Director of Racing, Chief Commission Steward, and Chief Pari-Mutuel Officer promptly and in no event later than 48 hours of the event triggering the notice requirement.

(i) Responsible Gambling

As a condition of licensure an association shall implement a problem gambling program as approved by the Commission.

(j) Posting of Jockey Insurance Coverage

1. An association shall have on file with the commission a copy of the actual policy and post in the jockeys' quarters a summary of the association's insurance coverage for

jockeys who are injured while on the grounds of the association and shall, upon the request of any licensed jockey who is participating in the race meeting, provide a copy of the policy of such insurance. Such request shall be made in writing to a racing official designated by the association in the notice to respond to such requests.

2. In the event that the insurance policy is changed during the race meeting the association shall promptly notify the commission and post a notice of any such changes.

#### **4.21: Licenses, Registrations and Fees for Participants in Racing ~~Repealed~~**

~~(1) The following persons shall be required to take out a license from the Commission and pay the applicable annual fee: Authorized Agent, Jockey, Jockey Apprentice, Jockey Agent, Owner and Colors, Trainer, Stable Employee, Veterinarian, Blacksmith, Racing Officials, Valet, Vendor, Outriders, Stable Name, Partnership.~~

~~(2) The fee shall accompany each application for license or registration. They expire December 31st of the year of issue.~~

~~(3) All applications for licenses and registrations to participate in racing shall be made to the Commission on forms supplied by the Commission. Any person making any false, untrue or misleading statements on an application for license or registration may be denied such a license or registration or may be assessed a forfeiture, suspended or both.~~

~~(4) The Commission may designate categories of licenses which shall require stewards' prior approval or recommendation. Such applications shall be submitted first to the Stewards. In considering each application for a license the Stewards may require the applicant, as well as the endorsers to appear before them and show that said applicant is qualified in every respect to receive the license requested. Ability as well as integrity must be clearly shown by the applicant in order to receive the Stewards' recommendation for the granting of the license.~~

~~(5) Before recommending any application for a license it shall be the duty of the Stewards, individually and collectively, to ascertain if the applicant is qualified as to the ability, integrity and right to the license applied for.~~

~~(6) Financial Responsibility. Applicants for a license may be required to submit evidence of financial responsibility and shall maintain financial responsibility during the period for which the license is issued.~~

~~(7) License Refusal. The Commission or its designee may refuse to issue a license and give the applicant the option of withdrawal of an application without prejudice. If an applicant is refused, the applicant may reapply for a license.~~

~~(8) License Denial. The Commission may formally deny an application in accordance with 205 CMR 4.00. An application denied shall be reported in writing to the applicant stating the reasons for denial, the date when a reapplication may be submitted, and shall be reported to or the~~

~~Association of Racing Commissioners International, whereby other member racing jurisdictions shall be advised.~~

~~(9) Grounds for Refusal, Denial, Suspension or Revocation of License~~

~~(a) The Commission or its designee may refuse to issue or may deny a license to an applicant, or may suspend or revoke a license issued, or may order disciplinary measures, if the applicant:~~

- ~~1. has been convicted of a felony;~~
- ~~2. has been convicted of violating any law regarding gambling or a controlled dangerous substance;~~
- ~~3. has pending criminal charges; or~~
- ~~4. is unqualified to perform the duties required of the applicant;~~
- ~~5. has failed to disclose or states falsely any information required in the application;~~
- ~~6. has been found in violation of statutes or rules governing racing in this state or other jurisdictions;~~
- ~~7. has racing disciplinary charges pending in this state or other jurisdictions;~~
- ~~8. has been or is currently excluded from association grounds by a recognized racing jurisdiction;~~
- ~~9. has had a license denied, suspended or revoked by any racing jurisdiction;~~
- ~~10. is a person whose conduct or reputation may adversely reflect on the honesty and integrity of horse racing or interfere with the orderly conduct of a race meeting;~~
- ~~11. demonstrates financial irresponsibility by accumulating unpaid obligations, defaulting in obligations or issuing drafts or checks that are dishonored or payment refused;~~

~~(b) A license suspension or revocation shall be reported in writing to the applicant and the Association of Racing Commissioners International, whereby other member racing jurisdictions shall be advised.~~

~~(10) No application for a license or registration shall be recommended by the Stewards and no license or registration will be issued by the Commission unless satisfactory evidence first is presented to the Stewards that the person so applying will participate in the meeting over which the Stewards have supervision.~~

~~(11) All persons licensed and registered by the Massachusetts Gaming Commission and all others whose occupation requires access to secured stable areas or participating in horse racing in the Commonwealth of Massachusetts may be photographed and finger printed under the supervision of the Massachusetts Gaming Commission Police Unit and in accordance with the Massachusetts State Police Identification System.~~

~~(12) The Stewards may issue temporary licenses, to jockeys or apprentice jockeys. If during the term of the temporary license, the Stewards make the determination that said jockey or apprentice jockey is not qualified as to the ability to receive a permanent license then the temporary license shall be revoked.~~

~~(13) Temporary Owner Licenses may be issued to Trainers acting as agents for their owners or to authorized agents representing their owners. Temporary licenses will be valid for a period of 30 days from date of approval. Every Temporary Owner's License must be followed by an application from the owner received by the Gaming Commission prior to the expiration of the 30-day Temporary Owner's License. Failure to do so will result in an imposition by the Stewards of a fine against the trainer or authorized agent. No horse will be allowed to race after the expiration of the Temporary Owner's License until a permanent owner's license is granted.~~

~~(14) No application, except a license for ownership, will be considered for or granted to a person under 16 years of age. If younger than 18 years of age, an applicant for an owner's license shall submit a notarized affidavit from his or her 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 within the Commonwealth of Massachusetts.~~

~~(15) When an ownership is in the name of both husband and wife, both shall be licensed and no partnership shall be required.~~

~~(16) Every Commission licensee exercising a horse shall upon request of an official timer, correctly identify the horse he or she is exercising and shall state the distance over which such horse is to be worked and the point on the race track where it is intended to start the workout.~~

~~(17) Every person following the vocation of exercise person, hot walker, groom or stable foreman shall be licensed by the Commission.~~

~~(18) Any applicant for licensing as a pony or exercise person, who is not registered as an employee of an existing licensee, may apply for such licensing provided that such applicant shall be approved by the Stewards and shall be required to be registered on a separate "Badge List" to be maintained by track security.~~

~~(19) Before a Trainer's License is issued by the Commission, said trainer shall submit evidence, satisfactory to the Stewards, that he or she has fully complied with the provisions of Worker's Compensation Laws of the Commonwealth of Massachusetts and that he has secured compensation to employees in accordance with in accordance with M.G.L. c.152.~~

#### **4.22: Naming of Jockeys (Repealed)**

~~(1) Jockeys shall be named not later than scratch time of the day of the race.~~

~~(2) Any subsequent change of a jockey must be sanctioned by the Stewards and must be promptly and publicly posted and announced.~~

#### **4.23: Owner**

~~(1) Each owner holding a beneficial interest of 20% or more in a horse must obtain a license from the Commission. If the owners are husband and wife, and their total beneficial interest is 20% or more in a horse, then they must both obtain a license from the Commission.~~

~~(2) An owner shall not enter or start a horse that:~~

~~(a) is not in servicably sound racing condition;~~

~~(b) has been trachea tubed;~~

~~(c) has been nerved at or above the ankle;~~

~~(d) has been nerved or had cryosurgery performed on a nerve, except that horses that have had a neurectomy or cryosurgery performed on the posterior digital nerve below, and not at, the fetlock of one or more feet may be permitted to race;~~

~~(e) is blind or whose vision is seriously impaired in both eyes. A horse blind in one eye may start only if the other eye has normal vision; or~~

~~(f) does not comply with M.G.L. c.129 Section 44 and 330 CMR 16.05.~~

~~(3) A list of nerved horses approved by the Official Veterinarian for racing shall be conspicuously posted in the Racing Secretary's office.~~

~~(4) If an owner changes trainers, he or she must notify the Racing Secretary and cause the new trainer to sign his or her name on said owner's registration.~~

~~(5) No owner shall employ a jockey for the purpose of preventing him or her from riding in any race.~~

~~(6) No owner shall accept, directly or indirectly, any bribe, gift or gratuity in any form that might influence the result of any race, or tend to do so.~~

~~(7) No owner shall move or permit to be moved any of his or her horses from the grounds of an Association until the horse is properly signed out of the grounds at the stable gate and after the racing Secretary has been properly notified.~~

~~(8) An owner shall see to it that a report is made promptly to the Racing Secretary or to the Official Veterinarian of any and all known sickness of his or her horses.~~

~~(9) The owner of a horse which is prevented from starting in a race because of his or her failure to pay the jockey fee for that race, or arrears against him or her or his or her horse, shall be liable for the declaration fee, and he or she and his or her horse shall be suspended until same is paid.~~

~~(10) No stable may have in its employment in any capacity any employee under 16 years of age, except as may be permitted by the applicable laws of the Commonwealth of Massachusetts.~~



(1) Licensing Requirements for Owners

- (a) Each person who has a five percent 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) The provisions of 205 CMR 4.21(3) notwithstanding, 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 his/her 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) If the Commission or its designee has reason to doubt the financial responsibility of an applicant for an owner's license, the applicant may be required to complete a verified financial statement.
- (e) Each licensed owner is responsible for disclosure to the Commission or its designee of the true and entire ownership of each of his/her 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.
- (f) 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 there is a showing on the part of the applicant or licensed owner, and the Commission determines that participation in racing will not permit a person to serve as a substitute for an ineligible person. The transfer of a horse to circumvent the intent of a Commission rule or ruling is prohibited.

(2) 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 205 CMR 4.23.
- (b) Each partnership, corporation, limited liability company, syndicate or other association or entity shall disclose to the Commission all owners holding a five percent 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 five percent ownership or beneficial interest shall file with the Commission an affidavit which attests that, to the best of their knowledge, every owner, regardless of their ownership or beneficial interest, is not presently ineligible for licensing or suspended in any racing jurisdiction.
- (d) To obtain an owner's license, an owner with less than a five percent ownership or beneficial interest in a horse shall establish a bona fide need for the license and the issuance of such license shall be approved by the stewards.

- (e) Application for joint ownership shall include a designation of a managing owner and a business address. Receipt of any correspondence, notice or order at such address shall constitute official notice to all persons involved in the ownership of such horse.
- (f) The written appointment of a managing owner or authorized agent shall be filed with the Commission.

### (3) 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.

### (4) Stable Name Registration

Licensed owners and lessees may adopt a stable name subject to the approval of the Commission.

- (a) The applicant shall identify all persons using the stable name. Changes shall be reported immediately to the Commission.
- (b) A person who has registered a stable name may cancel it upon written notice to the Commission.
- (c) A stable name may be changed by registering a new stable name.
- (d) A stable name which has been registered by any other person will not be approved by the Commission.
- (e) A stable name shall be clearly distinguishable from other registered stable names.
- (f) The stable name and 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."
- (g) All persons using a stable name shall comply with all rules regarding licensing of owners.

### (5) Racing Colors

- (a) Owners or trainers shall provide racing colors which may be subject to the approval of the Commission except at racetracks where colors are furnished by the association. 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 program, and any change shall be announced to the public prior to the commencement of the race.
- (c) Colors registered for life with any State Gaming or Racing Commission or with the Jockey Club of New York shall be respected in Massachusetts and only the registrant shall be permitted to use them.
- (d) The Commission will not permit the use of colors that in their opinion are not neat and clean and proper in all other respects.

### (6) Temporary Owner Licenses

Temporary Owner Licenses may be issued to trainers acting as agents for their owners or to authorized agents representing their owners. Temporary licenses will be valid for a period of



10 days from date of approval. Every Temporary Owner's License must be followed by an application from the owner received by the Gaming Commission prior to the expiration of the 10-day Temporary Owner's License. Failure to do so will result in an imposition by the Stewards of a fine against the trainer or authorized agent. No horse will be allowed to race after the expiration of the Temporary Owner's License until a permanent owner's license is granted.

(7) **Transfer of Ownership**

Once a horse has been registered with the racing secretary of any race track association, no horse may be transferred to a new owner, unless claimed, without permission of a board of stewards who may require a bill of sale signed by both buyer(s) and sellers(s) and the transfer of ownership must be timely reported to the appropriate breed registry

**4.24: Paddock Judge**

~~(1) It shall be the duty of the Paddock Judge to check all contestants for each and every race and to have all horses properly identified.~~

~~(2) The Paddock Judge shall keep a record of all equipment carried by all horses in all races under his or her jurisdiction, permitting no change in equipment not authorized by the Stewards.~~

~~(3) The Paddock Judge shall, in each race, require the Plater in attendance in the Paddock to see to that all horses are properly shod. The said Paddock Judge shall report immediately to the Stewards the findings of the Plater.~~

~~(4) The Paddock Judge shall report any irregularities to the Stewards.~~

(1) **General Authority**

The paddock judge shall:

- (a) supervise the assembly of horses in the paddock no later than fifteen (15) minutes before the scheduled post time for each race;
- (b) maintain a written record of all equipment, inspect all equipment of each horse saddled and report any change thereof to the stewards;
- (c) prohibit any change of equipment without the approval of the stewards;
- (d) 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;
- (e) supervise paddock schooling of all horses approved for such by the stewards;
- (f) report to the stewards any observed cruelty to a horse;
- (g) ensure that only properly authorized persons are permitted in the paddock; and
- (h) report to the stewards any unusual or illegal activities.

(2) Paddock Judge's List

- (a) 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.
- (b) Such horse shall be refused entry until it has demonstrated to the paddock judge that it has been satisfactorily schooled in the paddock and has been removed from the Paddock Judge's List.

**4.25: Paddock to Post:** (repealed)

**4.26: Partnerships** (Repealed)

~~(1) Each and every partnership must be registered with the Commission. Every member of the partnership with a beneficial interest of 20% or more shall be licensed. Every member of the partnership with a beneficial interest of less than 20% shall not be licensed unless they establish a *bona fide* need for the license and the issuance of the license shall be approved by the stewards.~~

~~(2) Partnership papers shall, among other things, set forth the following:~~

- ~~(a) the name and address of each and every person having an interest in the horse or horses involved.~~
- ~~(b) the relative proportions of such interests.~~
- ~~(c) to whom the winnings are payable.~~
- ~~(d) in whose name the horse or horses shall run.~~
- ~~(e) with whom the power of entry and declaration rests.~~
- ~~(f) the terms of any contingency, lease or any other arrangement.~~

~~(3) All partnership papers must be signed by all of the parties or by their authorized agents.~~

~~(4) In case of emergency, authority to sign declarations of partnership may be given to the Racing Secretary by a telegram promptly confirmed in writing.~~

~~(5) The part owner of any horse cannot assign his or her share or any part of it, without the written consent of the other partners, the said consent to be lodged with the Gaming Commission.~~

~~(6) An alteration in a recorded partnership registration to be effective must be reported in writing to the Commission and signed by all partners.~~

~~(7) All the parties licensed in a partnership and each of them shall be jointly and severally liable for all stakes, forfeits and other obligations.~~

~~(8) In case of multiple ownership, each and every owner shall be in good standing in racing. In a Limited Partnership and every other form of partnership, only the Managing General Partner, General Partners or a person designated to act on behalf of the partnership and partners whose percentage of ownership is 20% or more of the total partnership shall be licensed as owners. A partner whose percentage of ownership is less than 20% of the total partnership shall not be licensed as an owner unless they establish a *bona fide* need for the license and the issuance of the license shall be approved by the stewards. Those, not licensed, must provide full disclosure by the partnership of:~~

~~(a) The limited partner's name, address, date of birth, social security number and criminal history if any;~~

~~(b) The percentage of total partnership interest owned by the limited partner. If limited partners are husband and wife, and their total ownership interest in the partnership represents 20% or more of the total partnership, then they shall both be licensed as owners.~~

~~(c) Said disclosure statement shall be made under oath and accompanied by a copy of the partnership agreement.~~

~~If a limited partner with less than 20% interest of the total partnership could not obtain a license for reasons outlined in 205 CMR 4.21, the Limited Partnership shall not be licensed. In the event that one of the persons listed in the Limited Partnership is suspended, all horses owned by the Limited Partnership may be suspended, at the discretion of the Stewards and or the Commission.~~

~~It shall be the responsibility of the General Partner or his or her licensed designee to notify the Stewards and Gaming Commission in writing of any change in the ownership or interest in the Limited Partnership.~~

~~Only the Managing General Partner or a licensed partner or a person designated to act on behalf of the partnership and is licensed can enter a horse in a race.~~

#### **4.27: 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.~~

#### **4.28: Placing Judges**

~~(1) Three Placing Judges shall occupy the Placing Judges' Stand during each and every race, and their duty shall be to place and record the complete order of finish in each race.~~

~~(2) The placing Judges shall properly display the numbers of the first four horses in each race in the order of their finish.~~

~~(3) When the Placing Judges differ in their placing the majority shall prevail.~~

~~(4) The Placing Judges shall make public their decision as promptly as possible.~~

~~(5) If it is considered advisable to consult a picture from the finish camera, the Placing Judges shall post, without waiting for a picture, such placements as are in their opinion unquestionable, and, after consulting the picture, make the other placements.~~

~~(6) The Judges may call for a picture from the photo finish camera to aid them in arriving at a decision. However, in all cases the camera is merely an aid and the decision of the Judges shall be final.~~

~~(7) In determining the places of the horses at the finish of a race, the Placing Judges shall consider only the relative position of the respective noses of such horses.~~

~~(8) Upon receipt of such notice the Stewards shall promptly display the sign "official."~~

~~(9) There shall be no alteration of placement after the sign "official" has been purposely displayed, except as in outlined in 205 CMR 6.04(4)(Pari-mutuel Rules).~~

~~(10) The Placing Judges shall each day file with the Commission a copy of the official placement of the first six horses in each race of that day, and shall supply to other officials such information in respect to the racing as the Association may require.~~

#### (1) General Authority

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.

#### (2) 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) In the event a photo was requested, the placing judges shall cause a computer-generated photographic image of said finish to be produced. The finish photograph shall, when needed, be used by the placing judges as an aid in determining the correct order of finish.
- (c) Following their review of the photo finish, the placing judges shall, with the approval of the stewards, determine the exact order of finish for all horses participating in the race, and shall immediately cause the numbers of the first four finishers to be posted on the totalisator board.

#### (3) 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, with the approval of the stewards, 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.

#### **4.29: Postponement and Cancellation of Races Repealed**

- ~~(1) If the whole or a part of a racing program is abandoned any purse race involved must be declared off.~~
- ~~(2) If the whole or a part of a racing program is abandoned any stake race involved may be postponed or declared off.~~
- ~~(3) If a stake race is declared off, all subscriptions and fees paid in connection with that race shall be refunded.~~
- ~~(4) Public notice shall be given at the earliest practicable time if a published race is declared off.~~
- ~~(5) No race that has closed with sufficient entries shall be declared off except by the Stewards.~~

#### **4.30: Racing and Operating Officials**

(1) **Racing** Officials at a race meeting include the following:

- (a) stewards;
- (b) racing secretary;
- (c) horsemen's bookkeeper;
- (d) paddock judge;
- (e) horse identifier;
- (f) clerk of scales;
- (g) jockey room custodian;**
- ~~(gh)~~ outrider;
- ~~(hi)~~ starter;
- ~~(ij)~~ timer/clocker;
- ~~(jk)~~ patrol judge, absent video replay equipment;
- ~~(kl)~~ placing judge
- ~~(lm)~~ official veterinarian;
- ~~(mn)~~ racing veterinarian;
- ~~(no)~~ any other person so designated by the Commission.

~~(2) The Commission shall appoint two of the Stewards. All other officials designated in 205 CMR 4.30(1) shall be appointed by the Association holding the meeting, all appointments being subject to the approval of the Commission, which reserves the right to demand a change of personnel for what it deems good and sufficient reasons. The successor to official so replaced to be subject to the approval of the Commission.~~



~~(3) No one interested in the result of a race, either because of ownership of any horse entered, or of his or her sire or dam, or because of bets or otherwise, shall act as a racing official in respect to that race.~~

~~(4) No such racing official or his or her assistants shall wager money or any other chattel of value on the result of any race at the meeting.~~

~~(5) No such racing official or his or her assistants shall accept, directly or indirectly, any gratuity reward or favor in connection with racing at the meeting.~~

~~(6) No such racing official or his or her assistants shall, at the meeting, directly or indirectly, buy or sell any contract upon any jockey or apprentice jockey for himself or herself or another.~~

~~(7) No such racing official or his or her assistants shall write or solicit horse insurance at the meeting.~~

~~(8) Each racing official and his or her assistants shall report to the Stewards all observed violations of 205 CMR 4.00.~~

~~(9) The Commission may, at its discretion, require an eye test of any Steward, Placing Judge or Patrol Judge, said test to be given by a licensed optometrist. The test to include particularly distance and color.~~

(2) Operating Officials at a race meeting include the following:

- (a) Director of Racing;
- (b) Director of Security or Surveillance;
- (c) Director of Pari-Mutuels;
- (d) Director of Simulcast Operations;
- (e) Director of Money Room Operations;
- (f) Track Superintendent; or
- (g) any other person so designated by the Commission who has the ability to direct, manage, or control racing operations or who supervises racing officials in the course of their official duties.

(3) Prohibited Practices

Racing officials and their assistants and operating officials shall not engage in any of the following activities while serving in an official capacity at a race meeting:

- (a) accept directly or indirectly, any gratuity, reward or favor in connection with racing at the meeting;
- (b) participate in the sale or purchase, or own or lease any horse racing at the meeting, regardless of percentage or terms;
- (c) sell or solicit horse insurance, equipment, feed, products and/or any services or materials intended for use or used on any horse racing at the race meeting;

- (d) be licensed in any other capacity without permission of the Commission; or
- (e) directly or indirectly wager on the outcome of any race under the jurisdiction of the Commission or, on a race day when he or she is acting in his or her official capacity, at any facility under the jurisdiction of the Commission.

(4) Report of Violations

Racing officials and their assistants and operating officials shall report immediately to the stewards every perceived observed violation of these rules and of the laws of this state governing racing.

(5) Observations and Notifications

(a) Any racing official shall report to the Stewards as soon as possible any perceived issues with a horse based on the condition prior to the race which may significantly affect the running of the race.

(b) Upon notification to the stewards, they shall conduct an immediate investigation.

(6) Complaints Against Officials

(a) Complaints against any steward shall be made in writing to the Commission and signed by the complainant.

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

(c) A racing official may be held responsible by the stewards or the Commission for the actions of their assistants.

(7) Appointment of Substitute Officials

Where an emergency vacancy exists among racing officials, the stewards or the association, with the stewards' approval, shall appoint a person to fill the vacancy immediately. Such appointment shall be reported to the Commission and shall be effective until the vacancy is filled in accordance with these rules.

(8) Appointment of Substitute Steward

Should any steward be absent at race time, and no approved alternate steward be available, the remaining stewards shall appoint a substitute for the absent steward. If a substitute steward is appointed, the Commission and the association shall be notified by the stewards.

**4.31: Racing Secretary**

~~(1) The Racing Secretary or his or her deputy shall discharge all duties of his or her office expressed or implied, as required by 205 CMR 4.00.~~

~~(2) A list of nerved horses approved by the Official Veterinarian for racing shall be conspicuously posted in the Racing Secretary's office.~~



~~(3) The Racing Secretary shall compile an official program for each racing day, which shall state the time for the first race and give the names of the horses which are to be run in each of the races of the day.~~

~~(4) The program shall indicate the order in which each race is to be run; the purse, conditions and distance of each race; the owner, trainer and jockey of each horse; each owner's racing colors; the weight assigned to each horse; his or her name, number and post position, color, sex, age and breeding. The names of the members of the Commission, Commission officials and all racing officials shall be printed on the program. The program may show other pertinent data.~~

~~(5) The Racing Secretary shall keep a complete record of all races.~~

~~(6) The Racing Secretary shall receive all entries and declarations, and he, she, or any other person designated by the Association may receive all stakes, forfeits, entrance monies, fees (including jockey's fees) purchase money in claiming races and all other money that can properly come into possession as agent for the Association for which he or she is acting.~~

~~(7) The Racing Secretary shall pay over when due, all monies collected by him or her to such persons as may be entitled to receive it.~~

~~(8) The Racing Secretary shall, in the interest of racing, keep himself or herself thoroughly informed concerning such arrears as may be authoritatively listed or reported for recognized meetings, using such list as a means of eliminating undesirable people from racing. The lists shall be compiled and kept accessible at all times to other officials of the race meeting, as shall all other information in his or her possession that is required for the conduct of the meeting.~~

~~(9) The Racing Secretary shall have the right to inspect any trainer's or jockey's license, partnership papers, all papers and documents with respect to a contract between a jockey and his or her employer, or employers; and papers relating to the appointment of authorized agents; jockey agents, or to the adoption of colors or to stable names.~~

## (1) General Authority

The racing secretary 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 and scratches.

## (2) Foal, Health and Other Eligibility Certificates

- (a) The racing secretary shall be responsible for receiving, inspecting and safeguarding the foal and health certificates, Equine Infectious Anemia (EIA) test certificates and other documents of eligibility for all horses competing at the track or stabled on the grounds.
- (b) The racing secretary shall record the alteration of the sex of a horse on the horse's foal certificate and report such to the appropriate breed registry and past performance services.
- (c) The racing secretary shall record on a horse's registration certificate when a posterior digital neurectomy (heel nerving) is performed on that horse.

(d) Effective January 1, 2016, the racing secretary shall ensure that all horses entered to race are registered with the ARCI or its designee.

(3) List of Nerved Horses

The racing secretary shall maintain a list of nerved horses which are on association grounds and shall make the list available for inspection by other licensees participating in the race meeting.

(4) List of Bred Fillies and Mares

The racing secretary shall maintain a list of all fillies or mares on association 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.

(5) Allocation of Stalls

The racing secretary shall assign stall applicants such stabling as is deemed proper and maintain a record of arrivals and departures of all horses stabled on association grounds.

(6) Conditions

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

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

(c) Winnings during the year shall be calculated by the racing secretary from the preceding January 1.

(7) Listing of Horses

The racing secretary shall:

(a) examine all entry blanks and declarations to verify information as set forth therein; and

(b) select the horses to start and the also eligible horses from the declarations in accordance with 205 CMR 4.00.

(8) Posting of Entries

Upon completion of the draw each day, 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.

(9) Daily Program

The racing secretary shall publish the official daily program, ensuring the accuracy therein of the following information:

(a) sequence of races to be run and post time for the first race;

(b) purse, conditions and distance for each race, and current track record for such distance;

(c) the name of licensed owners of each horse, indicated as leased, if applicable, and description of racing colors to be carried;

- (d) the name of the trainer and the name of the jockey named for each horse together with the weight to be carried;
- (e) the post position and saddle cloth number or designation for each horse if there is a variance with the saddle cloth designation;
- (f) identification of each horse by name, color, sex, age, sire and dam;
- (g) A notice shall be included in the daily program that all jockeys will carry approximately three (3) pounds more than the published weight to account for safety equipment (vest and helmet) that is not included in required weighing out procedures. Additionally the jockeys may weigh in with an additional (3) pounds for inclement weather gear when approved by the stewards; and
- (h) such other information as may be requested by the association or the Commission.

#### (10) 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.

#### (11) Stakes and Entrance Money Records

The racing secretary shall be caretaker of the permanent records of all stakes and shall verify that all entrance monies due are paid prior to entry for races conducted at the meeting.

### **4.32: Urine, Other Tests and Examinations** (repealed)

### **4.33: Starter**

- ~~(1) Only the Starter or a deputy approved by him or her and by the Stewards may start a race.~~
- ~~(2) The Starter shall give all orders and take all measures necessary to insure a fair start.~~
- ~~(3) The Starter's decision as to the validity of a start shall be final. Likewise his or her decision as to whether a horse was locked in the gate shall be final.~~
- ~~(4) The Starter may appoint his or her assistants subject to the approval of the Stewards.~~
- ~~(5) Horses are in the hands of the Starter from the moment they enter the track on the way from paddock to post. They remain in his or her hands until the start.~~
- ~~(6) In case the alignment of the horses at the post is delayed, the Starter may permit jockeys to dismount and their mounts to be attended.~~
- ~~(7) Horses shall take their positions in numerical order from the inside rail, that order to be determined by postposition. However, if the starter deems a horse unruly, said horse may take position out of order.~~
- ~~(8) All flat races shall be started out of a stall gate.~~

~~(9) In case of necessity, by permission of the Stewards, a gate may be used with the doors open.~~

~~(10) If the number of horses starting in a stake race does not exceed the capacity of the track, but does exceed the number of stalls in the gate, the surplus may be started from outside the gate.~~

~~(11) The Starter may place vicious and unruly horses on the outside and behind the line.~~

~~(12) The Starter shall report to the Stewards by whom or by what cause any delay was occasioned and any cases of misconduct by jockeys when under his or her orders.~~

~~(13) The Starter shall maintain and keep available to the Stewards a daily record of all horses handled at the gate.~~

~~(14) The Starter shall maintain a Starter's list, and all horses shall be schooled to barrier or starting gate, if and when required under the personal supervision of himself or herself or his or her assistants.~~

~~(15) Only the Starter shall have the authority to designate the horses that shall constitute the Starter's list.~~

~~(16) The Starter shall file a copy of the Starter's list with the Racing Secretary.~~

~~(17) The Starter shall report to the Racing Secretary as soon as a horse on the list has been schooled sufficiently to be permitted to start.~~

~~(18) A horse will not be eligible to start until the starter orders the name stricken from the Starter's list.~~

~~(19) The concurrent statements of the Starter and his or her assistants as to incidents of the start are conclusive.~~

~~(20) Neither the Starter nor his or her assistants shall mistreat or use abusive language to a jockey.~~

~~(21) The Starter's approval of the starting ability of all two-year-olds must be obtained before the same are permitted to start. Likewise, his or her approval must be obtained for all older horses that have never started at a recognized meeting.~~

~~(24) If a horse is locked in the gate, the Starter shall immediately notify the Stewards who in turn shall immediately notify the manager of the Pari-mutuel Department.~~

~~(25) No person shall give to any starter or assistant starter, nor shall any starter or assistant starter receive money, anything of value, or other compensation for such starter's or assistant starter's services in connection with the running of any race or races. No Starter or assistant starter, shall either directly or indirectly bet on any race, or engage in any betting transaction nor have any interest in any horse.~~

### (1) General Authority

The starter shall:

- (a) 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;
- (b) 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;
- (c) ensure that an adequate number of qualified assistant starters is available for each race;
- (d) 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;
- (e) 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;
- (f) load horses into the gate in any order deemed necessary to ensure a safe and fair start; and
- (g) immediately report to the stewards any false starts, impeded starts or unfair starts.

### (2) Assistant Starters

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

- (a) handle or take charge of any horse in the starting gate without the expressed permission of the starter;
- (b) impede the start of a race;
- (c) apply a whip or other device to assist in loading a horse into the starting gate;
- (d) slap, boot or otherwise dispatch a horse from the starting gate;
- (e) strike or use abusive language to a jockey; or
- (f) accept or solicit any gratuity or payment other than his/her regular salary, directly or indirectly, for services in starting a race.

### (3) 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. Such 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.

### (4) Report Violations

The starter and assistant starter shall report all unauthorized activities to the stewards.

## **4.34: Steeplechasing**

(1) Steeplechases shall be conducted in conformity with 205 CMR 4.00 established in so far as they can be consistently applied. To the extent that they cannot so be applied, modification thereto may be made by the Stewards in accordance with the Rules of the National Steeplechase Association, 400 Fair Hill Drive, Elkton, MD. [www.nationalsteeplechase.com](http://www.nationalsteeplechase.com)

(2) All horses engaged in Steeplechasing must be registered either at the Jockey Club, 40 East 52nd Street, New York, NY 10022 or with the National Steeplechase Association.

#### **4.35: Stewards**

~~(1) The Stewards shall have the power to interpret 205 CMR 4.00 and to decide all questions not specifically covered by them.~~

~~(2) In matters pertaining to racing, the orders of the Stewards supersede the orders of the Officers and Directors of the Association.~~

~~(3) The Stewards shall have general supervision over owners, trainers, jockeys, grooms and other persons attendant on horses, and also over all the other officials at the meeting.~~

~~(4) The Stewards shall have the authority to declare a race void and to order all wagers made thereon refunded if they shall determine that any occurrence before or during the running of such race calls for such action by them.~~

~~(5) The Stewards shall have control over and free access to all stands, weighing rooms, enclosures, and other places in use for the purpose of racing.~~

~~(6) All entries and declarations shall be under the supervision of the Stewards.~~

~~(7) The Stewards shall have the power to determine all questions arising with reference to entries and racing.~~

~~(8) All questions pertaining to which their authority extends shall be determined by a majority of the Stewards.~~

~~(9) The Stewards shall have the power to punish for violation of 205 CMR 4.00 any person subject to their control and in their discretion to impose forfeitures or suspensions or both for infractions.~~

~~(10) The Stewards may not impose a forfeiture in excess of \$3,000.00. If it is deemed necessary that a larger forfeiture should be imposed, the Stewards shall so recommend to the Commission.~~

~~(11) The Stewards may suspend a person or disqualify a horse. The Stewards shall maintain a list of such disqualified horses and other horses that in the opinion of the Stewards are not competitive at that meeting or are dangerous to themselves, riders or other horses. Horses on said list may not enter until permission to do so is given by the Stewards in order to remove a horse~~



from said list. No horse may be placed on said list unless prior thereto the Stewards state, in writing, the reason for placement of the horse thereon.

(12) The Stewards shall have the powers to exclude or eject from the premises and enclosures of the Association:

(a) any person who is disqualified for corrupt practices on the turf in any country;

(b) any person who is under suspension by the Stewards of a recognized meeting or ruled off by any other Commission; or

(c) any person who is under their supervision.

(13) The Stewards may demand proof that a horse neither is disqualified in any particular; nor entered or owned, in whole or in part, by a disqualified person, or trained in whole or in part, by a disqualified person. In default of proof, satisfactorily to them, the Stewards may declare the horse disqualified.

(14) The Stewards may postpone a race from race-day to race-day.

(15) The Stewards shall have the power to examine or cause to be examined at any time any horse stabled on the Association grounds, or in stabling approved by the Association.

(16) The three Stewards must be on duty during race time, which shall mean from one hour before post time for the first race of the day until the last race of the day has been made official.

(17) At least one of the Stewards, or his or her deputy, must be on duty within call of the Racing Secretary from the time of opening of overnight entries each morning until after the drawing of postpositions.

(18) The Steward may appoint his or her own deputy at any time.

(19) If there is only one Steward present at race time, said Steward shall appoint two other qualified persons to act with him or her as Stewards pro-tem.

(20) If only two Stewards are present at race time, they shall by agreement appoint a deputy for the absent Steward; but if unable to reach an agreement, shall call upon the Racing Secretary to appoint said deputy.

(21) If none of the Stewards are present at race time, the Racing Secretary shall appoint three qualified persons, one of whom may be himself or herself, to act as Stewards pro-tem.

(22) When a vacancy occurs among the racing officials, other than the Stewards, prior to post time of the first race of the day, or when a vacancy occurs after the racing of the day has started, the Stewards shall immediately fill the vacancy. The appointment shall be effective only for the day, unless the Association fails to fill the vacancy on the following day and notifies the



~~Stewards of its action not less than one hour before the post time of the first race of the day. Such appointment shall be reported immediately to the Commission.~~

~~(23) The Stewards shall take notice of any questionable conduct with or without complaint thereof.~~

~~(24) The Stewards may substitute a jockey of their selection on any horse.~~

~~(25) The Stewards may place any horse in the temporary charge of a trainer of their selection.~~

~~(26) In case of accident or casualty to a horse before a start, the Stewards may excuse said horse.~~

~~(27) The Stewards must investigate promptly, and render a decision in every objection and in every complaint properly made to them.~~

~~(28) The Stewards shall report all objections and complaints to the Commission as soon as received by them, and shall make prompt report to said Commission of their decision.~~

~~(29) The Stewards shall, not later than seven days after the end of each meeting, make a report to the Chairman of the Commission of all infractions of 205 CMR 4.00 and of all rulings of the Stewards upon matters coming before them during such meeting.~~

~~(30) Except in emergencies, no Steward shall grant permission for a change of horses' equipment after the close of entries for the race in which the changed equipment is to be carried.~~

~~(31) There shall be one or more timers. They shall determine the official time of each race.~~

~~(32) The time recorded for the first horse to cross the finish line shall be the official time of the race.~~

~~(33) In the event that a horse establishes a track record in a race and if it later develops that the chemical analysis of any sample taken indicates the presence of a narcotic, stimulant, depressant or local anesthetic, then such track record shall be null and void.~~

~~(34) When electric timing is used, the races shall also be timed otherwise.~~

~~(35) The time shall be announced and displayed.~~

~~(36) A written report of the time of each race shall be made to the Clerk of the Scales for the reports to the Racing Secretary.~~

~~(37) No person may refuse to testify before the Stewards at any formal hearing on any relevant matter within the authority of the Stewards, except in the proper exercise of a legal privilege or unless representation is requested by an attorney or their association.~~

(1) Accreditation

To qualify for appointment as a Steward, the appointee shall meet the experience, education and examination requirements necessary to be accredited by the Racing Officials Accreditation Program in association with the Universities of Arizona and Louisville and be in good standing with all racing jurisdictions.

(2) General Authority

- (a) The stewards for each meeting shall be responsible to the Commission for the conduct of the race meeting in accordance with the laws of this state and 205 CMR.
- (b) The stewards shall enforce 205 CMR.
- (c) The stewards' authority includes supervision of all racing officials, track management, licensed personnel, other persons responsible for the conduct of racing, and patrons, as necessary to ensure compliance with 205 CMR.
- (d) The stewards shall have authority to resolve conflicts or disputes related to racing and to discipline violators in accordance with the best interests of racing.
- (e) The stewards have the authority to interpret 205 CMR and to decide all questions of racing not specifically covered therein.
- (f) The stewards may postpone or cancel races in the event of unfavorable weather or other unavoidable cause.

(3) Period of Authority

The stewards' period of authority shall commence with the opening of the barn area prior to the beginning of each race meeting and shall terminate with the completion of their business pertaining to the meeting. The Commission or its designee shall assume authority if no steward is seated.

(4) Disciplinary Action

- (a) The stewards shall take notice of alleged misconduct or rule violations and initiate investigations into the matters.
- (b) The stewards shall have authority to charge any licensee for a violation of 205 CMR, to conduct hearings and to impose disciplinary action in accordance.
- (c) The stewards may compel the attendance of witnesses and the submission of documents or potential evidence related to any investigation or hearing.
- (d) The stewards may at any time inspect license documents, registration papers, and other documents related to racing.
- (e) The stewards have the power to administer oaths and examine witnesses.
- (f) The stewards shall consult with the official veterinarian to determine the nature and seriousness of a laboratory finding or an alleged medication violation.
- (g) The stewards may impose, but are not limited to, any of the following penalties on a licensee for an attempt to violate or a violation of 205 CMR:
  - 1. issue a reprimand;
  - 2. assess a fine;

3. require forfeiture or redistribution of purse or award, when specified by applicable rules;
  4. place a licensee on probation;
  5. suspend a license or racing privileges;
  6. revoke a license; or
  7. exclude from grounds under the jurisdiction of the Commission.
- (h) The stewards may suspend a license for not more than one year per violation; or they may impose a fine not to exceed \$3,000 per violation; or they may suspend and fine; or they may order that a person be ineligible for licensing.
- (i) The stewards shall submit a written report to the Commission of every inquiry and hearing.
- (j) A stewards' ruling shall not prevent the Commission from imposing a more severe penalty.
- (k) 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.
- (l) Purses, prizes, awards, and trophies shall be redistributed if the stewards or Commission order a change in the official order of finish.
7. All fines imposed by the stewards shall be paid to the Commission within 48 hours after the ruling is issued, unless otherwise ordered.

(5) Protests, Objections and Complaints

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.

(6) Stewards' Presence

Three stewards shall be present in the stewards' stand during the running of each race.

(7) Order of Finish for Pari-Mutuel Wagering

- (a) The stewards shall determine the official order of finish for each race in accordance with 205 CMR 4.11(6)(e).
- (b) The decision of the stewards as to the official order of finish, including the disqualification of a horse or horses as a result of any event occurring during the running of the race, shall be final for purposes of distribution of the pari-mutuel wagering pool.

(8) Cancel Wagering

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

(9) Records and Reports

- (a) 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 contain 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.
- (b) The presiding steward shall maintain a detailed log of the stewards' official activities. The log shall describe all questions, disputes, protests, complaints, or objections brought to the attention of the stewards and all interviews, investigations and rulings made by the stewards. The log shall be available at all times for inspection by the Commission or its designee.
- (c) Not later than seven 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 contain:
  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 association or action by the Commission.

(10) 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 on the Stewards' List shall be refused entry until, in the opinion of the stewards, the issue that caused it to be placed on the list has been resolved. Only the stewards may remove a horse from the Stewards' List.

**4.36: Trainers**

- ~~(1) Each trainer must obtain a license from the Commission.~~
- ~~(2) No trainer's license or assistant trainer's license shall be considered or approved for an applicant less than 18 years of age.~~
- ~~(3) No trainer shall practice his or her profession except under his or her own name.~~
- ~~(4) The Stewards may permit a trainer to act pending action on his or her application.~~
- ~~(5) A licensed trainer may represent the owner in the matter of his or her entries, declarations and the employment of jockeys.~~

~~(6) A trainer shall have his or her horse in the paddock at the time appointed.~~

~~(7) A trainer shall attend his or her horse in the paddock, and shall be present to supervise his or her saddling, unless he or she has obtained the permission of a Steward to send his or her assistant trainer or another licensed trainer as a substitute.~~

~~(8) When a trainer is to be absent from his or her stable or the grounds where his or her horses are racing for a period of more than two racing days, and his or her horses are entered or are to be entered, he or she must provide a licensed trainer to assume the complete responsibility of the horses he or she is entering or running. Such licensed trainer shall sign in the presence of the Stewards a form furnished by the Commission accepting complete responsibility of the horse or horses being entered or running.~~

~~(9) The trainer shall be responsible for and be the absolute insurer of the condition of the horses he or she enters regardless of the acts of third parties.~~

~~(10) Each trainer shall register with the Racing Secretary all the horses in his or her charge, giving the name, color, sex, age, breeding and ownership of each.~~

~~(11) The personnel of every stable and changes thereof shall be registered, by the trainer, with the Security Department at the track where their horses are racing or stabled, and shall be available at all times to representatives of the Commission.~~

~~(12) A trainer shall not have in charge or under his or her supervision any horse owned, in whole or in part, by a disqualified person.~~

~~(13) A trainer shall not have in charge, or under his or her supervision any horse owned, in whole or in part, by a jockey.~~

~~(14) No trainer shall accept, directly or indirectly, any bribe, gift or gratuity in any form which might influence the result of any race or which would tend to do so.~~

~~(15) No trainer shall move or permit to be moved any horse or horses in his or her care from the grounds of an Association until the horse is properly signed out of the grounds at the stable gate and after the Racing Secretary has been properly notified.~~

~~(16) A trainer shall not enter or start a horse that:~~

~~(a) is not in serviceably sound racing condition;~~

~~(b) has been trachea-tubed;~~

~~(c) has been "nerved" at or above the ankle.~~

~~(d) has been nerved or had cryosurgery performed on a nerve; except that horses that have had a neurectomy or cryosurgery performed on the posterior digital nerve below, and not at, the fetlock of one or more feet may be permitted to race.~~

~~(e) is blind or whose vision is seriously impaired in both eyes. A horse blind in one eye may start only if the other eye has normal vision.~~

~~(f) does not comply with M.G.L. c.129 Section 44 and 330 CMR 16.05.~~

~~(17) A trainer shall report promptly, to the Official Veterinarian, all horses in his or her care that have been nerved. A list of nerved horses approved by the Official Veterinarian for racing shall be conspicuously posted in the Racing Secretary's Office.~~

~~(18) No trainer shall employ a jockey for the purpose of preventing him or her from riding in any race.~~

~~(19) A trainer is responsible for reporting the proper gender of his or her horse at the time of entry, and reporting the castration of any horse in his or her care to the Horse Identifier and Official Veterinarian.~~

## (1) Eligibility

(a) An applicant for a license as trainer:

1. be at least 18 years of age.
2. shall, in the case of not being previously licensed, be qualified, as determined by the stewards or other commission designee, by reason of:
  - A. At least 2 years' experience as a licensed assistant trainer, or comparable experience in other equine disciplines, or a college-level education in equine science and/or horsemanship.
  - B. Submission of two written statements from trainers currently licensed in that jurisdiction as to character and qualifications of the applicant, and one written statement from a currently licensed owner stating intent to place one or more horses with the applicant, when licensed.
  - C. Shall be required to pass a written examination, oral interviews with the stewards and regulatory 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. Evidence of qualifications shall require passing one or more of the following:

1. A written examination;
2. A demonstration of practical skills;
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 (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 Stewards administering the examination.



(d) Beginning no later than January 1, 2016, in order to maintain a current license, trainers must complete at least four hours per calendar year of continuing education courses approved by the Commission.

(2) Trainer Responsibility

(a) Medication Violations

1. The trainer is responsible for the condition of horses entered in an official workout or race and is responsible for the presence of any prohibited drug, medication or other substance, including permitted medication in excess of the maximum allowable level, in such 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.
2. trainer shall prevent the administration of any drug or medication or other prohibited substance that may cause a violation of these rules.
3. trainer whose horse has been claimed remains responsible for any violation of rules regarding that horse's participation in the race in which the horse is claimed.

(b) Other Responsibilities

A trainer is 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, and occupational license number. The Commission shall be notified by the trainer, in writing, within 24 hours of any change;
5. assuring the adequate care, custody, condition, fitness, health, safety and security of horses under his/her care, custody, and control;
6. disclosure of the true and entire ownership of each horse in his/her 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 him/her which are participating at the race meeting;
8. registering with the racing secretary each horse in his/her charge within 24 hours of the horse's arrival on association grounds;
9. ensuring that, at the time of arrival at a licensed racetrack, each horse in his/her care is accompanied by a valid health certificate which shall be filed with the racing secretary;



10. having each horse in his/her care that is racing, or is stabled on association grounds, tested for Equine Infectious Anemia (EIA) in accordance with M.G.L. c.129 and for filing evidence of such negative test results with the racing secretary;
11. using the services of those veterinarians licensed by the Commission to attend horses that are on association grounds ;
12. immediately reporting the alteration of the sex of a horse in his/her care to the horse identifier and the racing secretary, whose office shall note such alteration on the certificate of registration;
13. promptly reporting to the racing secretary and the official veterinarian any horse on which a posterior digital neurectomy (heel nerving) is performed and ensuring that such fact is designated on its certificate of registration;
14. promptly reporting any errors with regard to the registrations papers as to sex alterations, of sex noted, digital neurectomy (heel nerving) and any known inaccuracy in the ownership, racing record or description of the horse.
15. promptly notifying the official veterinarian of any reportable disease and any unusual incidence of a communicable illness in any horse in his/her charge;
16. promptly reporting the death of any horse in his/her care on association grounds to the stewards and the official veterinarian and compliance with 205 CMR 4.56;
17. maintaining a record to be available to the commission or its designee for at least 6 months of all medication(s) administered to horses under their care, custody, and control. Records should include, at a minimum, all of the following:
  - a. the name of the horse;
  - b. the date of each medication administered;
  - c. the name, the dosage, and the route of medication administered; and
  - d. the name of the Veterinarian, the Licensed Trainer, and/or any designee responsible for administering and prescribing the medication;
18. immediately reporting to the stewards and the official veterinarian if he/she knows, or has cause to believe, that a horse in his/her custody, care or control has received any prohibited drugs or medication;
19. representing an owner in making entries and scratches and in all other matters pertaining to racing;
20. horses entered as to eligibility and weight or other allowances claimed;
21. ensuring the fitness of a horse to perform creditably at the distance entered;
22. ensuring that his/her horses are properly shod, bandaged and equipped;
23. ensuring any horse entered for racing is present on the grounds prior to the scheduled furosemide administration time, or one hour prior to first post time, whichever is earlier.
24. presenting his/her horse in the paddock at least 20 minutes before post time or at a time otherwise appointed before the race in which the horse is entered;
25. personally attending to his/her horses in the paddock and supervising the saddling thereof, unless excused by the stewards;

26. instructing the jockey to give his/her best effort during a race and that each horse shall be ridden to win;
27. attending the collection of a urine or blood sample from the horse in his/her charge or delegating a licensed employee or the owner of the horse to do so; and
28. notifying horse owners upon the revocation or suspension of his/her trainer's license. A trainer whose license has been suspended for more than 15 days, whose license has expired or been revoked, or whose license application has been denied, must inform the horse owners that until the license is restored the trainer can no longer be involved with the training, care, custody or control of their horses, nor receive any compensation from them for the training, care, custody or control of their horses. Upon application by the owner, the stewards may approve the transfer of such horses to the care of another licensed trainer, and upon such approved transfer, such horses may be entered to race. Upon transfer of the horse(s), the inactive trainer shall not be involved in any arrangements related to the care, custody or control of the horse(s) and shall not benefit financially or in any other way from the training of the horse(s).

(3) Restrictions on Wagering

A trainer shall only be allowed to wager on his/her horse or entries to win or finish first in combination with other horses.

(4) Assistant Trainers

- (a) Upon the demonstration of a valid need, a trainer may employ an assistant trainer as approved by the stewards. The assistant trainer shall be licensed prior to acting in such capacity on behalf of the trainer.
- (b) Qualifications for obtaining an assistant trainer's license shall be prescribed by the stewards and the Commission and may include those requirements prescribed in 205 CMR 4.36(1).
- (c) 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.

(5) Substitute Trainers

- (a) A trainer absent for more than five days from his/her responsibility 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 responsibility for the horses in writing and 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 pursuant to 205 CMR 4.36(2).

**4.37: Vendors of Horse Feed or Medicine**

Any vendor of horse feed or medicine of any kind or description shall file with the Commission a list of products which he or she proposes to sell or deliver within the enclosure of the race track, and shall further submit any new preparation to be offered for sale for approval of the

Official Veterinarian. Should such vendor offer any preparation not so approved by the Official Veterinarian or not so listed, he or she shall be denied the privileges of the stable area.

**4.38: Veterinarians** (Repealed)

**4.39: Walking Over**

(1) If, at the time for hoisting the numbers only one horse shall have weighed out, that horse shall be ridden past the Judges' Stewards' Stand, go to the post, and then move over the course. He or she shall then be deemed the winner.

In case of a walkover, the horse walking over shall receive:

- (a) In overnight races, ½ of the winner's rightful share of first money.
- (b) In stake races, ½ of the winner's rightful share of the added money and all fees.

(2) In case of a walkover, any money or prize that by the condition of the race would have been awarded to a horse placed second, or lower in the race, shall, if contributed by the owners, be paid to the winner. If a donation from any other source, it shall not be awarded.

**4.40: Weighing In** (repealed)

**4.41: Weighing Out** (repealed)

**4.42: Winnings** (Repealed)

~~(1) The winnings of a horse in a stake race shall be computed on the value of the gross earnings.~~

~~(2) Winnings shall include all net monies won in all countries, up to the time appointed for the start, including walkovers and forfeits but not second and third money nor the value of a prize not in money.~~

~~(3) Winnings during a year shall be reckoned from January 1<sup>st</sup> of that year.~~

~~(4) Winner or non-winner of a specified sum means winner, or non-winner of a single race of that value to the winner, unless otherwise stated.~~

~~(5) In computing the value of a series of races in which an extra sum of money is won by the winning of two or more races of the series, the extra amount shall not be included in the horse's winnings until the series, or that part of it, is finished and hence the extra amount is definitely ascertainable. When ascertained it shall be added to the race which determined the extra amount.~~

~~(6) Foreign winnings shall be estimated on the basis of the normal rate of exchange prevailing on the day of the winner.~~

~~(7) The entrance money, starting and subscription fees, in every race, shall go to the winner unless otherwise provided in its conditions, but when from any cause a race is not run, all stakes or entrance money, if any paid, shall be returned.~~

#### **4.43: Special Rules for State or County Fairs**

M.G.L. c. 128A, § 9, second paragraph provides "The Commission shall have power to prescribe special rules, regulations and conditions applicable to horse and dog racing meetings held under licenses granted hereunder in connection with a state or county fair, or any exhibition for the encouragement of extension of agriculture."

#### **4.44: Declarations and Scratches for State and County Fairs** (Repealed)

~~In purse races and overnight handicaps with more than eight interests, owners shall have the right to declare out to that number before the time stipulated by the regulations of the Association, on the day of the race such right to be determined by lot when necessary. Declarations below eight interests may only be made by permission from the Stewards.~~

#### **4.45: General Rules for State and County Fairs** (Repealed)

~~(1) The Stewards at meetings held in connection with State or County Fairs shall have the power to suspend anyone whom they have authority to supervise for no greater period than ten days beyond the close of the fair racing season in Massachusetts. They may extend a suspension from one fair meeting to another within the fair racing season.~~

~~The Stewards at meetings held in connection with State or County Fairs may impose a forfeiture on anyone whom they have authority to supervise, not exceeding \$500.00.~~

~~(2) Each Association licensed by the Commission to conduct a racing meeting in connection with a State or County Fair shall submit to the Commission a complete list of employees three days after the first racing day. This must contain in addition to the name and addresses of employees, the position each one is to fill or the duties he or she is to perform. All additions made to or changes in the list of employees must be promptly reported to the Commission.~~

#### **4.46: Paddock Judge for State and County Fair** (Repealed)

~~The Paddock Judge may permit a horse to be excused from parading and be led to the post.~~

#### **4.47: Practicing Veterinarians**

##### **(1) Eligibility**

An applicant for a license as practicing veterinarian shall be qualified and licensed to practice veterinary medicine in this jurisdiction and be otherwise qualified to be issued a license to participate in racing. 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.

(2) Responsibility

(a) All practicing veterinarians administering drugs, medications or other substances shall be responsible for ensuring that the drugs, medications or other substances and the veterinary treatment of horses are administered in accordance with rules in 205 CMR 4.00.

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

(c) All veterinarians shall file individual remittance certificates with individual blood samples when testing for equine infectious anemia. Upon receipt from an approved testing laboratory, the certificates shall be returned to the trainer whose responsibility it shall be to safeguard said certificate and surrender same to a new owner and/ or trainer in cases of claims, sales or transfers. All veterinarians shall notify the State Veterinarian immediately upon receipt of a positive report.

(3) Restrictions

(a) 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.

(b) Veterinarians licensed by the Commission to practice their profession shall not be eligible to hold an owner or trainer license at tracks under the jurisdiction of the Commission.

**4.48: Official Veterinarian**

(1) General. The official veterinarian shall:

- (a) be employed by the Commission;
- (b) be a graduate veterinarian and be licensed to practice in this jurisdiction;
- (c) be qualified to objectively and competently provide the regulatory duties described herein;
- (d) refuse employment or payment, directly or indirectly, from any horse owner or trainer of a horse racing or intending to race in the Commonwealth of Massachusetts while employed as the official veterinarian for the commission;
- (e) refrain from directly treating or prescribing for any horse under his or her jurisdiction except in cases of emergency, accident or injury;
- (f) have no employment history or business relationship prior to employment as the official veterinarian that could constitute a conflict of interest or impede in the performance of official duties.

(2) Responsibilities

The official veterinarian shall:

- (a) recommend to the stewards any horse deemed unsafe to be raced, or a horse that it would be inhumane to allow to race;
- (b) inspect any horse when there is a question as to the physical condition of such horse independent of the horse's entry status;

- (c) recommend to the stewards the scratching of any horse that is, in the opinion of the official veterinarian, injured, ill, or otherwise unable to compete due to a medical or health-related condition;
- (d) provide emergency medical care to horses injured racing and effect case transfer to the practicing veterinarian;
- (e) 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; and
- (f) report to the Commission the names of all horses humanely destroyed or which otherwise expire at the meeting and the reasons therefore;
- (g) maintain all required records of postmortem examinations performed on horses which have died within the jurisdiction of the Commission;
- (h) maintain the Veterinarian's List of horses ineligible to race;
- (i) supervise and control the Test Barn;
- (j) supervise the taking of all specimens for testing according to procedures approved by the Commission;
- (k) provide proper safeguards in the handling of all laboratory specimens to prevent tampering, confusion, or contamination and assure sample integrity;
- (l) provide the stewards with a written statement regarding the nature and seriousness of all laboratory reports of prohibited substances in equine samples.
- (m) have jurisdiction over the practicing licensed veterinarians within the enclosure for the purpose of 205 CMR 4.00;
- (n) review and consult with the applicants and the stewards/Commission regarding Commission license applications of practicing veterinarians, veterinary technicians or assistants, vendors of medical supplies and equipment, non-veterinarian health care providers (massage therapists, nutritionists, physical therapists, etc.); ~~and~~
- (o) cooperate with practicing veterinarians and other regulatory agencies to take measures to control communicable and/or reportable equine diseases-;
- (p) maintain the Furosemide list of horses permitted to receive raceday furosemide; and
- (q) review Medication Report Forms submitted by practicing veterinarians pursuant to 205 CMR 4.50(3).

#### **4.49: Racing Veterinarian**

- (1) The racing veterinarian(s) shall be employed by the Association.
- (2) The racing veterinarian shall:
  - (a) be directly responsible to the official veterinarian;
  - (b) be a graduate veterinarian and be licensed to practice in the jurisdiction;
  - (c) be available to the racing secretary and/or the stewards prior to scratch time each racing day, at a time designated by the stewards, to inspect any horses and report on their condition as may be requested by the stewards;
  - (d) inspect any horse when there is a question as to the physical condition of such horse;

- (e) conduct soundness inspections on horses participating in races at the meeting;
- (f) recommend scratching a horse to the stewards if, in the opinion of the racing veterinarian, the horse is physically incapable of exerting its best effort to win;
- (g) be present in the paddock during saddling, on the racetrack during the post parade and at the starting gate until the horses are dispatched from the gate for the race;
- (h) inspect any horse which appears in physical distress during the race or at the finish of the race; and shall report such horse together with his or her opinion as to the cause of the distress to the stewards and to the official veterinarian;
- (i) provide emergency medical care to horses injured racing and effect case transfer to the practicing veterinarian;
- (j) 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;
- (k) refuse employment or payment, directly or indirectly, from any horse owner or trainer of a horse racing or intending to race in this jurisdiction while employed as the racing veterinarian;
- (l) refrain from directly treating or prescribing for any horse scheduled to participate during his or her term of appointment at any recognized meeting except in cases of emergency, accident or injury; and
- (m) with approval of the official veterinarian, place horses on the Bleeder List.

#### **4.50: Veterinary Practices**

##### **(1) Veterinarians under Authority of Official Veterinarian**

Veterinarians licensed by the Commission and practicing at any location under the jurisdiction of the Commission are under the authority of the official veterinarian and the stewards. The official veterinarian shall recommend to the stewards or the Commission the discipline that may be imposed upon a veterinarian who violates 205 CMR 4.00.

##### **(2) Treatment Restrictions**

- (a) Only licensed trainers, licensed owners, or their designees shall be permitted to authorize veterinary medical treatment of horses under their care, custody and control at locations under the jurisdiction of the Commission.
- (b) Except as otherwise provided by 205 CMR 4.50(2), no person other than a veterinarian licensed to practice veterinary medicine in this jurisdiction and licensed by the Commission may administer a prescription or controlled medication, drug, or chemical to a horse at any location under the jurisdiction of the Commission.
- (c) 205 CMR 4.50(2) 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 shall possess a hypodermic needle, syringe capable of accepting a needle or injectable of any kind on association grounds, unless otherwise approved by the Commission. At any location under the jurisdiction of the Commission, veterinarians may use only one-time disposable syringe and needle, and shall dispose of both in a manner approved by the Commission. 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 may request permission of the stewards and/or the Commission in writing, furnish a letter from a licensed physician explaining why it is necessary for the person to possess a syringe, and must comply with any conditions and restrictions set by the stewards and/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 205 CMR 4.52(6), unless approved by the official veterinarian or his or her designee. Any unauthorized contact may result in the horse being scratched and may result in further disciplinary action by the stewards.

~~(f) Any horse entered for racing must be present on the grounds prior to the scheduled furosemide administration time, or one hour prior to first post time, whichever is earlier.~~

### (3) Veterinarians' Reports

(a) Every veterinarian who treats a racehorse at any location under the jurisdiction of the Commission shall, in writing on the Medication Report Form prescribed by the Commission, report to the official veterinarian or other commission designee at the racetrack where the horse is entered to run or as otherwise specified by the commission, the name of the horse treated, any medication, drug, substance, or procedure administered or prescribed, the name of the trainer of the horse, the date and time of treatment and any other information requested by the official veterinarian.

(b) The Medication Report Form shall be signed by the practicing veterinarian.

(c) The Medication Report Form must be filed by the treating veterinarian not later noon the day following treatment. Any such report is confidential and its content shall not be disclosed except in the course of an investigation of a possible violation of 205 CMR 4.00 or in a proceeding before the stewards or the Commission, or to the trainer or owner of record at the time of treatment.

(d) A timely and accurate filing of a Medication Report Form that is consistent with the analytical results of a positive test may be used as a mitigating factor in determining the nature and extent, if any, of a rules violation.

#### **4.51: Prohibited Practices.** The following are considered prohibited practices:

(1) The possession or use of a drug, substance or medication on the premises of a facility under the jurisdiction of the Commission for which:

- (a) a recognized analytical method has not been developed to detect and confirm the administration of such substance; or
- (b) the use of which may endanger the health and welfare of the horse or endanger the safety of the rider; or
- (c) the use of which may adversely affect the integrity of racing; or,
- (d) no generally accepted use in equine care exists.

~~(2) The possession or use of a drug, substance, or medication on the premises of a facility under the jurisdiction of the Commission that has not been approved by the United States Food and Drug Administration (FDA) for any use in (human or animal) is forbidden without prior permission of the official veterinarian or his or her designee.~~

(3-2) The possession and/or use of the following substances or of blood doping agents, including but not limited to those listed in 205 CMR 4.51(3)(a) through (j), on the premises of a facility under the jurisdiction of the Commission is forbidden:

- (a) Aminoimidazole carboxamide ribonucleotide (AICAR)
- (b) Cobra venom or derivatives thereof
- (c) Darbepoetin
- (d) Equine Growth Hormone
- (e) Erythropoietin (EPO)
- (f) Hemopure®
- (g) *myo*-Inositol Tripyrophosphate (ITPP)
- (h) Oxyglobin®
- (i) Snail venoms or derivatives thereof
- (j) Thymosin beta

(4-3) The use of Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy shall not be permitted unless the following conditions are met:

- (a) Any treated horse shall not be permitted to race or breeze for a minimum of 10 days following treatment;
- (b) The use of Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy machines shall be limited to veterinarians licensed to practice by the Commission using registered and approved machines;
- (c) Any Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy machines on the association grounds must be registered with and approved by the official veterinarian or his or her designee before use.
- (d) All Extracorporeal Shock Wave Therapy or Radial Pulse Wave Therapy treatments must be reported within one (1) day to the official veterinarian or his or her designee on the prescribed form. The horse shall be added to a list of ineligible horses.
- (e) Any person participating in the use of ESWT and/or the possession of ESWT machines in violation of 205 CMR 4.51(4) shall be considered to have committed a Prohibited Practice and is subject to a Class A Penalty.

~~(5-4)~~ The use of a nasogastric tube (a tube longer than six inches) for the administration of any substance within 24 hours prior to the post time of the race in which the horse is entered is prohibited without the prior permission of the official veterinarian or his or her designee.

(5) The possession of a nasogastric tube (longer than six inches) for the administration of any substance to a horse shall be limited to veterinarians licensed to practice by the Commonwealth.

#### **4.52: Medications and Prohibited Substances**

##### **(1) Aggravating and Mitigating Factors**

Upon a finding of a violation of 205 CMR 4.50-4.53, inclusive, the stewards shall consider the classification level of the violation as listed at the time of the violation in the Uniform Classification Guidelines of Foreign Substances as promulgated by the Association of Racing Commissioners International (ARCI) and impose penalties and disciplinary measures consistent with the recommendations contained therein. The stewards may consult with the official veterinarian, laboratory director or other individuals to determine the seriousness of the laboratory finding or the medication violation. All medication and drug violations shall be investigated and reviewed on a case by case basis. Extenuating factors include, but are not limited to:

- (a) The past record of the trainer, veterinarian and owner in drug cases;
- (b) The potential of the drug(s) to influence a horse's racing performance;
- (c) The legal availability of the drug;
- (d) Whether there is reason to believe the responsible party knew of the administration of the drug or intentionally administered the drug ;
- (e) The steps taken by the trainer to safeguard the horse;
- (f) The probability of environmental contamination or inadvertent exposure due to human drug use;
- (g) The purse of the race;
- (h) Whether the drug found was one for which the horse was receiving a treatment as determined by the Medication Report Form;
- (i) Whether there was any suspicious betting pattern in the race, and;
- (j) Whether the licensed trainer was acting under the advice of a licensed veterinarian.

As a result of the investigation, there may be mitigating circumstances for which a lesser or no penalty is appropriate for the licensee and aggravating factors, which may increase the penalty beyond the minimum.

##### **(2) Penalties**

- (a) In issuing penalties against individuals found guilty of medication and drug violations a regulatory distinction shall be made between the detection of therapeutic medications used routinely to treat racehorses and those drugs that have no reason to be found at any concentration in the test sample on race day.

(b) 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 official veterinarian to be forwarded to the Racing Medication and Testing Consortium for classification.

(c) Any drug or metabolite thereof found to be presenting a pre- or post-race sample which is not classified in the version of the ARCI *Uniform Classification Guidelines for Foreign Substances* in effect at the time of the violation shall be assumed to be a ARCI Class 1 Drug and the trainer and owner shall be subject to those penalties as set forth in schedule "A" therein unless satisfactorily demonstrated otherwise by the Racing Medication and Testing Consortium, with a penalty category assigned.

(d) Any licensee of the Commission, including veterinarians, found to be responsible for the improper or intentional administration of any drug resulting in a positive test may, after proper notice and hearing, be subject to the same penalties set forth for the licensed trainer.

(e) Procedures shall be established to ensure that a licensed trainer is not able to benefit financially during the period for which the individual has been suspended. This includes, but is not limited to, ensuring that horses are not transferred to licensed family members.

(f) Multiple Medication Violations (MMV)

1. A trainer who receives a penalty for a medication violation based upon a horse testing positive for a Class 1-5 medication with Penalty Class A-D, as provided in the version of the *ARCI Uniform Classification for Foreign Substances* in effect at the time of the violation, shall be assigned points based upon the medication's ARCI Penalty Guideline as follows:

Class	Points If Controlled Therapeutic Substance	Points If Non-Controlled Substance
Class A <sup>1</sup>	N/A	6
Class B	2	4
Class C	1	2
Class D	½	1

~~2. The points assigned to a medication violation shall be included in the Judges' ruling. Such ruling shall determine, in the case of multiple positive tests as described in paragraph (4), whether they shall thereafter constitute a single violation. The Judges' ruling shall be posted on the official website of the Association of Racing Commissioners International. If an appeal is pending, that fact shall be noted in such ruling. No points shall be applied until a final adjudication of the enforcement of any such violation.~~

The points assigned to a medication violation by the Stewards' or Commission ruling shall be included in the ARCI official database and the ARCI shall assign points consistent with 205 CMR 4.52(2)(f) for advisory purposes for medication violations where points have not been assigned by regulatory action. Points assigned by such regulatory ruling or by the ARCI shall reflect, in the case of multiple positive tests as described in 205 CMR 4.52(2)(f)(4), whether they shall thereafter constitute a single violation. The Stewards' or Commission Ruling shall be posted on the official website of the Commission and within the official database of the Association of Racing Commissioners International. If an appeal is pending, that fact shall be noted in such Ruling. No points shall be applied until a final adjudication of the enforcement of any such violation.

3. A trainer's cumulative points for violations in all racing jurisdictions shall be maintained ~~and certified~~ by the Association of Racing Commissioners International. Once all appeals are waived or exhausted, the points shall immediately become part of the trainer's official ARCI record and shall then subject the trainer to the mandatory enhanced penalties by the ~~Judges~~ **Stewards** or Commission as provided in 205 CMR ~~3.29(2)(f)~~ **4.52(2)(f)**.

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<sup>1</sup> Except for Class 1 and 2 environmental contaminants, e.g., cocaine which shall be determined by the ~~Judges~~ **Stewards** based upon the facts of the case.

4. Multiple positive tests for the same medication incurred by a licensed 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 Stewards may treat each substance found as an individual violation for which points will be assigned.**

5. The official ARCI record shall **be used to advise the Stewards or Commission of a** ~~constitute prima facie evidence of a licensed~~ trainer's past record of violations and cumulative points. Nothing in 205 CMR ~~3-29~~ **4.52(2)(f)** 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.

6. The ~~Judges~~ **Stewards** or Commission shall include all points for violations in all racing jurisdictions as contained in the trainer's official ARCI record when determining whether the mandatory enhancements provided in 205 CMR ~~3-29~~ **4.52(2)(f)** shall be imposed.

7. 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:

<b>Points</b>	<b>Suspension in days</b>
3-5.5	30
6-8.5	60
9-10.5	180
11 or more	360

MMV's are not a substitute for the current penalty system outlined in 205 CMR ~~3-29~~ **4.52(2)(a)-(d)** and are intended to be an additional uniform penalty when the licensed trainer:

- a. Has more than one violation for the relevant time period, and
- b. Exceeds the permissible number of points.

8. The suspension periods as provided above, shall run consecutive to any suspension imposed for the underlying offense.

9. The ~~Judges'~~ **Stewards' or Commission's** ruling shall distinguish between the penalty for the underlying offense and the enhancement based upon **a Stewards or Commission review of the licensed trainer's cumulative points and regulatory record, which may be considered an aggravating factor in the case.**

10. Any trainer who has received a medication violation may petition the ARCI to expunge the points received for the violation for the purpose of the MMV system only. The points shall be expunged **by the ARCI upon request of the trainer** as follows:

Penalty Classification	Time to Expungement
A	Permanent
B	3 years
C	2 years
D	1 year

(3) Medication Restrictions

(a) A finding by the commission approved laboratory of a prohibited drug, chemical or other substance in a test specimen of a horse is prima facie evidence that the prohibited drug, chemical or other substance was administered to the horse and, in the case of a post-race test, was present in the horse's body while it was participating in a race. Prohibited substances include:

1. Drugs or medications for which no acceptable threshold concentration has been established;
2. Controlled therapeutic medications in excess of established threshold concentrations or administration within the restricted time period as set forth in the version of the ARCI Controlled Therapeutic Medication Schedule in effect at the time of the violation;
3. Substances present in the horse in excess of concentrations at which such substances could occur naturally; and
4. Substances foreign to a horse at concentrations that cause interference with testing procedures.

(b) Except as otherwise provided by 205 CMR 4.00, a person may not administer or cause to be administered by any means to a horse a prohibited drug, medication, chemical or other substance, including any restricted medication pursuant to 205 CMR 4.00 during the 24-hour period before post time for the race in which the horse is entered.

(4) Medical Labeling

(a) No person on association grounds where horses are lodged or kept, excluding licensed veterinarians, shall have in or upon association grounds which that person occupies or has the right to occupy, or in that person's personal property or effects or vehicle in that person's care, custody or control, a drug, medication, chemical, foreign substance or other substance that is prohibited in a horse on a race day unless the product is labeled in accordance with 205 CMR 4.52(4).

(b) Any drug or medication which is used or kept on association grounds and which, by federal or state law, requires a prescription must have been validly prescribed by a duly licensed veterinarian, and in compliance with the applicable state statutes. All such allowable medications must have a prescription label which is securely attached and clearly ascribed to show the following:

1. The name of the product;



2. The name, address and telephone number of the veterinarian prescribing or dispensing the product;
3. The name of each patient (horse) for whom the product is intended/prescribed;
4. The dose, dosage, duration of treatment and expiration date of the prescribed/dispensed product; and
5. The name of the person (trainer) to whom the product was dispensed.

(5) Non-Steroidal Anti-Inflammatory Drugs (NSAIDs)

~~(a) The use of one of three approved NSAIDs shall be permitted under the following conditions:~~

- ~~1. Not to exceed the following permitted serum or plasma threshold concentrations which are consistent with administration by a single intravenous injection at least 24 hours before the post time for the race in which the horse is entered:
  - a. Phenylbutazone—2 micrograms per milliliter;
  - b. Flunixin—20 nanograms per milliliter;
  - c. Ketoprofen—10 nanograms per milliliter.~~
- ~~2. These or any other NSAID are prohibited to be administered within the 24 hours before post time for the race in which the horse is entered.~~
- ~~3. The presence of more than one of the three approved NSAIDs, in the post-race serum or plasma sample is not permitted.
  - a. A finding of phenylbutazone below a concentration of one half (.5) microgram per milliliter of blood serum or plasma shall not constitute a violation of 205 CMR 4.52(5).
  - b. A finding of flunixin below a concentration of three (3) nanograms per milliliter of blood serum or plasma shall not constitute a violation of 205 CMR 4.52(5).~~
- ~~4. The use of all but one of the approved NSAIDs shall be discontinued at least 48 hours before the post time for the race in which the horse is entered.~~

(a) The use of NSAIDs shall be governed by the following conditions:

1. The use of all but one of the approved NSAIDs (phenylbutazone, flunixin, or ketofen) shall be discontinued at least 48 hours before the post time for the race in which the horse is entered. No NSAID shall be administered within 24 hours of such post time.
2. NSAIDs not included on the ARCI Controlled Therapeutic Medication Schedule are not to be present in a racing horse biological sample at a level exceeding the laboratory concentration of detection.
3. The presence of more than one NSAID may constitute a NSAID stacking violation consistent with the following restrictions:
  - a. A Type 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:
    - Diclofenac – 5 nanograms per milliliter of plasma or serum;
    - Firocoxib - 20 nanograms per milliliter of plasma or serum;
    - Flunixin – 20 nanograms per milliliter of plasma or serum;
    - Ketoprofen – 2 nanograms per milliliter of plasma or serum;
    - Phenylbutazone – 2 micrograms per milliliter of plasma or serum; or
    - 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:
    - Diclofenac – 5 nanograms per milliliter of plasma or serum;
    - Firocoxib - 20 nanograms per milliliter of plasma or serum;
    - Flunixin – 3 nanograms per milliliter of plasma or serum;
    - Ketoprofen – 1 nanograms per milliliter of plasma or serum;
    - Phenylbutazone – 0.3 micrograms per milliliter of plasma or serum; or
    - all other non-steroidal anti-inflammatory drugs – laboratory concentration of detection.
- b. A Type 2 NSAID Stacking Violation (Penalty Class C) occurs when:
- i. Any one substance noted in 205 CMR 4.52(5)(a)(3)(a)(i) above 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:
    - Flunixin – 3 nanograms per milliliter of plasma or serum;
    - Ketoprofen – 1 nanogram per milliliter of plasma or serum; or
    - Phenylbutazone – 0.3 micrograms per milliliter of plasma or serum.
- c. A Type 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 205 CMR 4.52(5)(a)(3)(a)(i) above but in excess of the noted restrictions:
    - Flunixin – 3 nanograms per milliliter of plasma or serum;
    - Ketoprofen – 1 nanogram per milliliter of plasma or serum; or
    - Phenylbutazone – 0.3 micrograms per milliliter of plasma or serum.

(6) Furosemide

(a) In order for a horse to be placed on the Furosemide List the following process must 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 official veterinarian or his/her designee shall be notified using the prescribed form, that the horse is to be put on the Furosemide List.
2. The form must be received by the official veterinarian or his or her designee by the time of entry.
3. A horse placed on the official Furosemide 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 official veterinarian or his or her designee, on the proper form, no later than the time of entry.
4. After a horse has been removed from the Furosemide 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 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.
5. Furosemide shall only be administered on association grounds.
6. Furosemide shall be the only authorized bleeder medication

(b) The use of furosemide shall be permitted under the following circumstances on association grounds where a detention barn is not utilized:

1. Furosemide shall be administered by single intravenous injection no less than four hours prior to post time for the race for which the horse is entered.
2. The furosemide dosage administered shall not exceed 500 mg nor be less than 150 mg.
3. 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.

(c) 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;
2. Quantitation of furosemide in serum or plasma may be performed. Concentrations may not exceed 100 nanograms of furosemide per milliliter of serum or plasma.

(d) A horse which has been placed on a Furosemide List in another jurisdiction pursuant to rules similar to 205 CMR 4.52(6) shall be placed on a Furosemide List in this jurisdiction. A

notation on the horse's foal papers of such shall suffice as evidence of being on a Furosemide List in another jurisdiction.

(7) Bleeder List

(a) The official veterinarian shall maintain a Bleeder List of all horses, which have demonstrated external evidence of exercise induced pulmonary hemorrhage from one or both nostrils during or after a race or workout as observed by the official veterinarian.

(b) Every confirmed bleeder, regardless of age, shall be placed on the Bleeder List and be ineligible to race for the following minimum time periods:

1. First incident – 14 days;
2. Second incident – 30 days;
3. Third incident – 180 days;
4. Fourth incident – barred for racing lifetime.

(c) For the purposes of counting the number of days a horse is ineligible to run, the day the horse bled externally is the first day of the recovery period.

(d) The voluntary administration of furosemide without an external bleeding incident shall not subject the horse to the initial period of ineligibility as defined by 205 CMR 4.52(7).

(e) A horse which has been placed on a Bleeder List in another jurisdiction pursuant to rules similar to 205 CMR 4.52(7) shall be placed on a Bleeder List in this jurisdiction.

(8) Androgenic-Anabolic Steroids (AAS)

~~(a) No AAS shall be permitted in test samples collected from racing horses except for residues of the major metabolite of stanozolol, nandrolone, and the naturally occurring substances boldenone and testosterone at concentrations less than the indicated thresholds.~~

~~(b) Concentrations of these AAS shall not exceed the following plasma or serum thresholds for unchanged (i.e. not conjugated) substance or urine threshold concentrations for total (i.e., free drug or metabolite and drug or metabolite liberated from its conjugates):~~

- ~~1. Stanozolol: 1 ng/ml of total 16 $\beta$  hydroxystanozolol in urine of all horses regardless of sex, or 25 pg/ml of stanozolol in plasma or serum of all horses regardless of sex;~~
- ~~2. Boldenone: 15 ng/ml of total boldenone in urine of male horses other than geldings, or 25 pg/ml of boldenone in plasma or serum of all horses regardless of sex;~~
- ~~3. Nandrolone: 1 ng/ml of total nandrolone in urine, or 25 pg/ml of nandrolone in plasma or serum for geldings, fillies, and mares.~~
- ~~4. Testosterone:
  - a. In geldings—20 ng/ml total testosterone in urine, or 25 pg/ml of testosterone in plasma or serum;
  - b. In fillies and mares—55 ng/ml total testosterone in urine, or 25 pg/ml of testosterone in plasma or serum.~~

~~(c) Any other anabolic steroids are prohibited in racing horses.~~

~~(d) Post race urine samples must have the sex of the horse identified to the laboratory.~~

(a) No 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 indicated thresholds.

(b) Concentrations of these AAS shall not exceed the following free (*i.e.*, 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; males horses other than geldings shall be tested for Nandrolone in urine (see (c)(2) below);

3. Testosterone – A confirmatory threshold not greater than 25 picograms/milliliter for fillies, mares, and geldings.

(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) Any other AAS are prohibited in racing horses.

(e) The sex of the horse must be identified to the laboratory on all pre-race and post-race samples designated for AAS testing.

#### (9) Alkalinizing Substances

The use of agents that elevate the horse's TCO<sub>2</sub> or base excess level above those existing naturally in the untreated horse at normal physiological concentrations is prohibited. The following levels apply to blood gas analysis:

(a) The regulatory threshold for TCO<sub>2</sub> is 37.0 millimoles per liter of plasma/serum or a base excess level of 10.0 millimoles, and;

(b) The decision level to be used for the regulation of TCO<sub>2</sub> is 37.0 millimoles per liter of plasma/serum plus the measurement uncertainty of the laboratory analyzing the sample or a base excess level of 10.4 millimoles per liter of plasma/serum.

(10) Compounded Medication on Association Grounds

a. The possession or use of a drug, substance, or medication on Association Grounds that has not been approved by the appropriate federal agency (e.g., the United States Food and Drug Administration in the United States) for any use (human or animal) is forbidden without prior permission of the Commission or its designee.

b. It is a violation of this regulation to possess, use, or distribute a compounded medication on Association 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 Association 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. 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. Labels on compounded veterinary drugs. All compounded medications must be labeled in accordance with section 205 CMR 4.52(4): Medical Labeling.

(11) Cobalt

- (a) The presence of cobalt in a serum or plasma sample, whenever obtained, at a concentration exceeding 25 parts per billion may be a violation subject to a category "A" penalty as set forth in the Uniform Classification Guidelines of Foreign Substances as promulgated by the Association of Racing Commissioners International and described in 205 CMR 4.52(1).
- (b) In the event a sample from a horse is tested and found to have a concentration of cobalt in excess of the established threshold, the horse will be placed on the



veterinarian's list until such time as the concentration of cobalt in that horse's serum or plasma is below threshold.

#### **4.53: Out of Competition Testing for Blood and/or Gene Doping Agents**

- (1) Any horse on the grounds at a racetrack or training center under the jurisdiction of the commission; or under the care or control of trainer or owner licensed by the commission is subject to testing for blood and/or gene doping agents without advance notice.
- (2) Horses to be tested may be selected at random, with probable cause, or as determined by the commission;
- (3) The Official Veterinarian, or any licensed veterinarian or licensed veterinary technician authorized by the commission, may at any time, take a urine, blood or hair sample from a horse for this purpose.
- (4) Prohibited substances, practices and procedures are defined as:
  - (a) Blood doping agents including, but not limited to Erythropoietin (EPO), Darbepoetin, Oxyglobin, Hemopure, Aranesp or any substance that abnormally enhances the oxygenation of body tissues.
  - (b) Gene doping agents or the non-therapeutic use of genes, genetic elements, and/or cells that have the capacity to enhance athletic performance or produce analgesia.
- (5) Cooperation with the Official Veterinarian, or his or her designee, includes assisting in the immediate location and identification of the horse selected and providing a stall or safe location to collect the samples.
- (6) Split samples for out of competition testing will be collected as per 205 CMR 4.55(C).

#### **4.54: Physical Inspection of Horses**

##### **(1) Assessment of Racing 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.
- (b) The inspection shall be conducted by the official veterinarian or the racing veterinarian.
- (c) The agency or the association employing the examining veterinarian(s) should provide a staffing level of not less than 2 veterinarians.
- (d) 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; the legs must be clean. Prior to examination horses may not be placed in ice nor shall any device or substance be applied that impedes veterinary clinical assessment.
- (e) 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 official veterinarian and/or the racing veterinarian.

(f) The official veterinarian and/or the racing veterinarian shall maintain a permanent continuing health and racing soundness record of each horse inspected.

(g) The official veterinarian and/or the racing veterinarian are authorized access to any and all horses housed on association grounds regardless of entry status.

(h) If, prior to starting, a horse is determined to be unfit for competition, or if the veterinarian is unable to make a determination of racing soundness, the veterinarian will recommend to the Stewards the horse be scratched.

(i) Horses scratched upon the recommendation of the official veterinarian and/or the racing veterinarian are to be placed on the Veterinarian's List.

## (2) Veterinarian's List

(a) The official veterinarian shall maintain the Veterinarian's List of all horses which are determined to be unfit to compete in a race due to illness, physical distress, unsoundness, infirmity or any other medical condition. Horses so listed are ineligible to enter to race in any jurisdiction until released by an official veterinarian or racing veterinarian.

(b) A horse may be removed from the Veterinarian's List when, in the opinion of the official veterinarian, the condition which caused the horse to be placed on the veterinarian's List is resolved and the horse's status is returned to that of racing soundness.

(c) Horses working to be released from the Veterinarian's List are to be in compliance with 205 CMR 4.00 and are to be subjected to post-work biologic sample collection for laboratory confirmation or compliance. Violations may result in penalties consistent with 205 CMR 4.52(1).

(d) Horses may be released from the Veterinarian's List only by authorization of the official veterinarian.

(e) Horses having generated a "positive" post race test for an RCI Class I or II substance shall be required to generate a negative test at the expense of the current owner prior to being entered for the first start following the positive test.

## **4.55: Testing**

### (1) Reporting to the Test Barn

(a) The official winning horse and any other horse ordered by the Commission and/or the stewards shall be taken to the test barn to have blood and urine samples taken at the direction of the official veterinarian.

(b) Random or extra testing may be required by the stewards or the Commission at any time on any horse on association grounds.

(c) Unless otherwise directed by the stewards or the official veterinarian, a horse that is selected for testing must be taken directly to the test barn.

(d) A security guard shall monitor access to the test barn area during and immediately following each racing performance. All persons who wish to enter the test barn area must be a minimum of 16-years-old, be currently licensed by the Commission, display their Commission identification badge and have a legitimate reason for being in the test barn area.

(e) The owner, trainer or his or her groom or other authorized representative shall be present in the testing enclosure when a saliva, urine, blood or other specimen is taken from his or her horse and shall remain until the sample tag is attached to the specimen container. Said tag shall be signed by the owner, trainer or their representative as witnesses to the taking of the specimen.

(f) Willful failure to be present at or a refusal to allow the taking of any such specimen or refusal to sign the specimen tag to the taking of a specimen, or any act or threat to impede or prevent or otherwise interfere therewith, shall subject the person or person guilty thereof to immediate suspension by the Stewards of the meeting and the matter shall be referred to the Commission for such further penalty as in its discretion it may determine.

(2) Testing of Claimed Horses

(a) In the event a horse is claimed, and has been designated for a post race test said claimed horse shall be brought to the State Testing Area by the previous owner, trainer, or agent, and said owner, trainer or agent shall remain with this horse in the testing area until a urine specimen or other sample or test is received from the horse, and said previous owner, trainer or agent shall sign all necessary documents.

(b) Should the analysis of a post race blood, urine or saliva specimen taken from a claimed horse result in a post race positive test, the claimant's trainer shall be promptly notified by the Stewards and the claimant shall have the option to void said claim. An election to void a claim shall be submitted in writing to the Stewards by the claimant or his or her trainer.

(3) Split Samples

(a) Split samples shall be secured and made available for further testing in accordance with the following procedures:

1. A split sample shall be secured in the test barn under the same manner as the portion of the specimen acquired for shipment to a primary laboratory until such time as specimens are packed and secured for shipment to the primary laboratory. Split samples shall then be transferred to a freezer/refrigerator at a secure location approved by the Commission.

2. A freezer/refrigerator for storage of split samples shall be opened only for depositing or removing split samples, for inventory, or for checking the condition of samples. A log shall be maintained that shall be used each time a split sample freezer/refrigerator is opened to specify each person in attendance, the purpose for opening the freezer/refrigerator, identification of split samples deposited or removed, the date and time the freezer/refrigerator was opened, and the time the freezer/refrigerator was closed.

3. Any evidence of a malfunction of a split sample freezer/refrigerator or samples that are not in a frozen condition during storage shall be documented in the log and immediately reported to the official veterinarian or a designated Commission representative.

(b) A trainer or owner of a horse having been notified that a written report from a primary laboratory states that a prohibited substance has been found in a specimen obtained pursuant to 205 CMR 4.00 may request that a split sample corresponding to the portion of the specimen tested by the primary laboratory be sent to another [referee] laboratory approved by the Commission. The request must be made in writing and delivered to the stewards not later than three (3) business days after the trainer of the horse receives written notice of the findings of the primary laboratory. Any split sample so requested must be shipped within an additional 72 hours.

(c) The owner or trainer requesting testing of a split sample shall be responsible for the cost of shipping and testing. Failure of the owner, trainer or designee to appear at the time and place designated by the official veterinarian shall constitute a waiver of all rights to split sample testing. Prior to shipment, the Commission shall confirm the referee laboratory's willingness to simultaneously provide the testing requested, the laboratory's willingness to send results to both the person requesting the testing and the Commission, and arrangements for payment satisfactory to the referee laboratory.

(d) Prior to opening the split sample freezer/refrigerator, the Commission shall provide a split sample chain of custody verification form that shall provide a place for recording the following information and such other information as the official veterinarian may require. The form shall be fully completed during the retrieval, packaging, and shipment of the split sample. The split sample chain of custody form requirements are:

1. The date and time the sample is removed from the split sample freezer/refrigerator;
2. The sample number;
3. The address where the split sample is to be sent;
4. The name of the carrier and the address where the sample is to be taken for shipment;
5. Verification of retrieval of the split sample from the freezer/refrigerator;
6. Verification of each specific step of the split sample packaging in accordance with the recommended procedure;
7. Verification of the address of the referee laboratory on the split sample package;
8. Verification of the condition of the split sample package immediately prior to transfer of custody to the carrier; and
9. The date and time custody of the sample is transferred to the carrier.

(e) A split sample shall be removed from the split sample freezer/refrigerator by a Commission representative in the presence of a representative of the horsemen's association.

(f) The owner, trainer or designee shall pack the split sample for shipment in the presence of the representative of the Commission, in accordance with the packaging procedures recommended by the Commission. A form shall be signed by both the horsemen's representative and the Commission representative to confirm the packaging of the split sample. The exterior of the package shall be secured and identified with initialed tape, evidence tape or other means to prevent tampering with the package.

(g) The package containing the split sample shall be transported in a manner prescribed by the commission to the location where custody is transferred to the delivery carrier charged with delivery of the package to the Commission-approved laboratory selected by the owner or trainer.

(h) The owner, trainer or designee and the Commission representative shall inspect the package containing the split sample immediately prior to transfer to the delivery carrier to verify that the package is intact and has not been tampered with.

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

(j) If the split sample does not arrive at the referee laboratory because of an act of God or other condition beyond the control of the Commission, the findings in the original sample shall serve as *prima facie* evidence of any medication violation.

#### (4) Frozen Samples

The commission has the authority to direct the official laboratory to retain and preserve by freezing samples for future analysis. The fact that purse money has been distributed prior to the issuance of a laboratory report from the future analysis of a frozen sample shall not be deemed a finding that no drug substance prohibited by 205 CMR 4.00 has been administered.

#### (5) Suspicious Substances

The representatives of the Commission may take for analysis samples of any medicine or other materials suspected of containing improper medication or drugs which could affect the racing conditions of a horse in a race, which may be found in the stable area or elsewhere on the track or in the possession of any person connected with racing on such tracks.

### **4.56: Postmortem Examinations**

(1) The Commission may require a postmortem examination of any horse that dies or is euthanized on association grounds.

(2) The Commission may require a postmortem examination of any horse that dies or is euthanized at recognized training facilities within this jurisdiction.

(3) If a postmortem examination is to be conducted, the Commission shall take possession of the horse upon death for postmortem examination. All shoes and equipment on the horse's legs shall be left on the horse.

(4) If a postmortem examination is to be conducted, the Commission or its representative shall collect blood, urine, bodily fluids, or other biologic specimens immediately, if possible before euthanization. The Commission may submit blood, urine, bodily fluids, or other biologic specimens collected during a postmortem examination for analysis. The presence of a prohibited substance in a specimen collected during the postmortem examination may constitute a violation.

(5) All licensees shall be required to comply with postmortem examination requirements as a condition of licensure. In proceeding with a postmortem examination the Commission or its designee shall coordinate with the owner or the owner's authorized agent to determine and address any insurance requirements.

#### **4.57: Horseshoers**

(1) An applicant for a license as horseshoer shall:

- (a) be at least 18 years of age;
- (b) be qualified, as determined by the stewards and horseshoer consultant, by reason of experience, background and knowledge of horseshoing. A horseshoer's license from another jurisdiction, having been issued within a prior period as determined by the Commission, may be accepted as evidence of experience and qualifications.
- (c) Evidence of qualifications may require passing one or more of the following:
  - 1. a written examination;
  - 2. an interview or oral examination; and
  - 3. a demonstration of practical skills in horseshoing.
- (d) Applicants not previously licensed as a horseshoer shall be required to pass a written/oral examination, demonstrate practical skills and submit at least two written statements as to the character and qualifications of the applicant.

(2) No person shall be eligible for an owner or trainer license if, during the term of such license, that person would practice as a farrier with horses racing under the jurisdiction of the Commission; provided, however, that a duly licensed owner may personally shoe a horse owned by him or her upon applying for and receiving a certificate of fitness therefore from the Commission.

#### **4.58: Horse Identifier**

(1) General Authority

The Horse Identifier shall:

- (a) when required, ensure the safekeeping of registration certificates and racing permits for horses stabled and/or racing on association grounds;
- (b) inspect documents of ownership, eligibility, registration or breeding necessary to ensure the proper identification of each horse scheduled to compete at a race meeting;
- (c) examine every starter in the paddock for sex, color, markings and lip tattoo, microchip (ISO 11784), freeze brand or other identification method approved by the appropriate breed registry and the Commission for comparison with its registration certificate to verify the horse's identity; and
- (d) supervise the tattooing, microchip, freeze branding or other method of identification approved by the appropriate breed registry and the Commission for identification of any horse located on association grounds.

(2) Report Violations

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

## **4:59: Horsemen's Bookkeeper**

### (1) General Authority

The horsemen's bookkeeper shall maintain the records and accounts and perform the duties described herein and maintain such other records and accounts and perform such other duties as the association and Commission may prescribe.

### (2) Records

- (a) The records shall include the name, mailing address, social security number or federal tax identification number, and the state or country of residence of each horse owner, trainer or jockey participating at the race meeting who has funds due or on deposit in the horsemen's account.
- (b) The records shall include a file of all required statements of partnerships, syndicates, corporations, assignments of interest, lease agreements and registrations of authorized agents
- (c) All records of the horsemen's bookkeeper shall be kept separate and apart from the records of the association.
- (d) All records of the horsemen's bookkeeper including records of accounts and monies and funds kept on deposit are subject to inspection by the Commission at any time.
- (e) The association licensee is subject to disciplinary action by the Commission for any violations of or non-compliance with the provisions of this rule.

### (3) Monies and Funds on Account

- (a) All monies and funds on account with the horsemen's bookkeeper shall be maintained:
- (b) separate and apart from monies and funds of the association;
- (c) in a trust account designated as Horsemen's Trust Account; and
- (d) in an account insured by the Federal Deposit and Insurance Corporation or the Federal Savings and Loan Insurance Corporation.
- (e) The horsemen's bookkeeper shall be bonded in accordance with Commission stipulations.
- (f) 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.

### (4) 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 monies that properly come into his/her possession in accordance with the provisions of Commission rules.
- (b) The horsemen's bookkeeper may accept monies due belonging to other organizations or recognized meetings, provided prompt return is made to the organization to which the money is due.
- (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 such 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 (excluding Sundays).
- (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 dismissal or a final non-appealable order disposing of such protest or appeal.

#### **4:60: Timer/Clocker**

##### **(1) General Authority (Timer)**

- (c) The timer shall accurately record the time elapsed between the start and finish of each race.
- (d) 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.
- (e) At the end of a race, the timer shall post the official running time on the infield totalisator board on instruction by the stewards.
- (e) 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.
- (f) For back-up purposes, the timer shall also use a stopwatch to time all races.
- (g) 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.

##### **(2) General Authority (Clocker)**

- (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.



**KG NEW BEDFORD, LLC**  
**125 Park Avenue**  
**New York, New York 10017**

July 22, 2015

BY E-MAIL AND U.S. MAIL

Stephen Crosby  
Chairman  
Massachusetts Gaming Commission  
101 Federal Street, 23rd Floor  
Boston, Massachusetts 02109

Re: Notice of KG Urban's Withdrawal of its Region C Application

Dear Chairman Crosby:

Unfortunately, I write this letter to inform you that KG New Bedford, LLC is abandoning the Cannon Street project and withdrawing the Phase I Applications of it and its entity and individual qualifiers pursuant to 205 CMR 111.05.

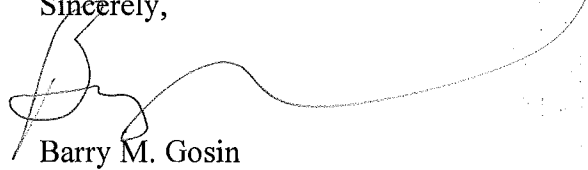
Despite significant efforts and expenditures on our part, we and our lenders/partners have been unable to create a viable financing package for the project. In particular, both primary and mezzanine financing in the requisite amounts have proved to be significantly harder to obtain than we had anticipated. The reluctance of lenders to provide the requisite financing is due to several factors, including the possibility of competition from a nearby Indian casino which would pay no taxes or other compensation to the Commonwealth. Given the uncertainty of obtaining viable financing for the project and the time constraints of the license application process, we cannot justify investing any additional funds in the project beyond the significant amount already invested. In addition, we cannot in good conscience ask the Massachusetts Gaming Commission to invest any more of its valuable time and resources considering the project.

We are thankful for all of the help and support we have received on the project, and we want to express our sincere gratitude to the citizens of New Bedford, the Mayor of New Bedford, the MGC and the various regulatory agencies who have been involved, and to our own employees, advisors and consultants, all of whom have worked so very hard on the project for such a long time.

As you can well imagine, we deeply regret reaching this conclusion, but we believe our decision is in the best interests of all involved.

Thank you for your attention.

Sincerely,

A handwritten signature in black ink, appearing to read 'Barry M. Gosin', with a long, sweeping horizontal flourish extending to the right.

Barry M. Gosin  
Vice President  
KG New Bedford, LLC



*Investigations & Enforcement Bureau*

July 16, 2015

Attorney Kevin Conroy  
Foley Hoag LLP  
Seaport West  
155 Seaport Boulevard  
Boston, Massachusetts 02210-2600

RE: KG New Bedford Application Issue

Dear Attorney Conroy,

In our phone conversation today you informed me that Gaming and Leisure Properties, Inc. (GLPI) has made a decision that it will not provide requested information on its qualifiers to the Investigations and Enforcement Bureau as part of the KG New Bedford suitability investigation. You indicated that the reason for this position is that GLPI has significant concerns that the KG Urban group does not have sufficient ability to fund the project, and therefore the project is not viable.

As a result of this communication, I am suspending the investigation and am putting the matter on the agenda for the July 23<sup>rd</sup> open Commission meeting next week. Please have a representative from GLPI and a representative from KG New Bedford in attendance to address the Commission.

Please note that the September 30, 2015 RFA 2 deadline for Region C remains in effect.

As always, please do not hesitate to contact me with any questions.

Very truly yours,

Karen Wells  
Director  
Investigations and Enforcement Bureau  
Massachusetts Gaming Commission



Massachusetts Gaming Commission

101 Federal Street, 23rd Floor, Boston, Massachusetts 02110 | TEL 617.979.8400 | FAX 617.737.8066 | [www.massgaming.com](http://www.massgaming.com)



*Investigations & Enforcement Bureau*

To: Chairman Crosby, Commissioner Zuniga, Commissioner Stebbins, Commissioner Cameron and Commissioner McHugh

From: Karen Wells, Director, Investigations and Enforcement Bureau

Re: Temporary Key Gaming Employee Licenses Issued

Date: July 23, 2015

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Pursuant to the authority the Commission delegated to the IEB on March 19, 2015, the IEB has granted temporary licenses to the following individuals.

Key Gaming Employees

1. Andrew M. Plante, Director of Security, Plainville Gaming and Redevelopment (7/9/15)
2. David J. DiOrion, Jr., Slot Operations Assistant Shift Manager, Plainville Gaming and Redevelopment (7/10/15)

Each application has been deemed complete by the Division of Licensing. The petitioner has certified and the IEB has found, after reviewing the proposed operational plan for the facility, that each temporary license is necessary for the operation of the gaming establishment given the planned June 24, 2015 opening date, and is not designed to circumvent normal licensing procedures.

The IEB has found that in each case that the license is reasonably likely to be issued upon completion of the investigation.



Massachusetts Gaming Commission

101 Federal Street, 23rd Floor, Boston, Massachusetts 02110 | TEL 617.979.8400 | FAX 617.737.8066 | [www.massgaming.com](http://www.massgaming.com)

**No Documents**



**Monitoring of  
Project Construction  
and  
Licensee Requirements  
205 CMR 135**

**Quarterly Report  
as of  
June 30, 2015**





## Monitoring of Project Construction and Licensee Requirements Quarterly Report as of 6-30-15

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# APPENDIX 1

## Plainridge Park Casino Quarterly Report to MGC Updated Guidelines As of June 30, 2015

### Reference 205 CMR 135.02 – (1)

Updates received during the quarter ended June 30, 2015 are as follows:

- 205 CMR 101: DRAFT Amendments – M.G.L.c.23K Adjudicatory Proceedings  
(Public hearing held May 21, 2015)
- 205 CMR 102: DRAFT Amendments – Construction and Application  
(Public hearing held June 30, 2015)
- 205 CMR 134: DRAFT Amendments – Licensing and Registration  
(Public hearing held June 30, 2015)
- 205 CMR 136: DRAFT- Sale and Distribution of Alcoholic Beverages  
(Public hearing held May 21, 2015)
- 205 CMR 139: DRAFT – Continuing Disclosure and Reporting Obligations of Gaming Licensees  
(Public hearing held April 23, 2015)
- 205 CMR 140: DRAFT – Gross Gaming Revenue Tax Remittance and Reporting  
(Public hearing held April 23, 2015)
- 205 CMR 150: DRAFT – Protection of Minors & Underage Youth Race Horse  
Development Fund  
(Public hearing held May 21, 2015)
- 205 CMR 151: DRAFT Amendments – Operations Certificate  
(Public hearing held June 30, 2015)
- 205 CMR 152: DRAFT - Individuals Excluded from the Gaming Establishment  
(Public hearing held May 21, 2015)

Received draft / comment period open for the following:

- 205 CMR 2.00: General Rules  
(Public hearing not yet scheduled)
- 205 CMR 3.00: Harness Horse Racing  
(Public hearing not yet scheduled)
- 205 CMR 4.00: Horse Racing  
(Public hearing not yet scheduled)

## APPENDIX 2

### Plainridge Park Casino Quarterly Report to MGC Project Schedule As of June 30, 2015

#### Reference 205 CMR 135.02 – (2)(a)(c)

#### Construction Activities

- June 18, MGC approved Plainridge Park Casino to open the casino for test day to be held June 22, 2015. Temporary certificate of operations, with conditions, was issued on June 24, 2015.
- Penn National Gaming issued a press release June 24, 2015 announcing Plainridge Park Casino's grand opening to the public at 2 PM.
- Final Certificate of Operation was issued at the MGC meeting held June 25, 2015, pending completion of various MGC recommendations/conditions.

#### Non-Construction Activities

- On June 29, 2015, Plainridge Park Casino received approval from the Green Building Certification Institute of 38 points from the design phase filing. Remaining points required to achieve LEED Gold Certification to come from the construction phase filing and will be reported in a future filing.

## **APPENDIX 3**

### **Plainridge Park Casino Quarterly Report to MGC Affirmative Action Program Design & Construction As of June 30, 2015**

#### **Reference 205 CMR 135.02 – (3)**

Diversity Plan for the Design and Construction Phase of Plainridge Park Casino previously approved during MGC meeting held May 15, 2014 and project remains in compliance with said plan.

Specifics of said progress addressed in the following Appendix 8 and Appendix 9 of this quarterly report.

## **APPENDIX 4**

### **Plainridge Park Casino Quarterly Report to MGC Project Schedule Changes As of June 30, 2015**

#### **Reference 205 CMR 135.02 – (4)**

Penn National Gaming is pleased to have completed the Plainridge Park Casino project in accordance with the originally submitted schedule and was never required to make any major changes to the method of or progress of construction throughout the duration of the project.

Attached hereto is a report of photos taken as of June 19, 2015 showing completed areas of the project including various photos taken of the MassDOT improvements and new Pylon Sign at the entrance to the property.



**PENN NATIONAL**  
GAMING, INC.



# Turner

## PLAINRIDGE PARK CASINO- PROJECT PHOTOS

### Various Project Photos Taken 6/19/15

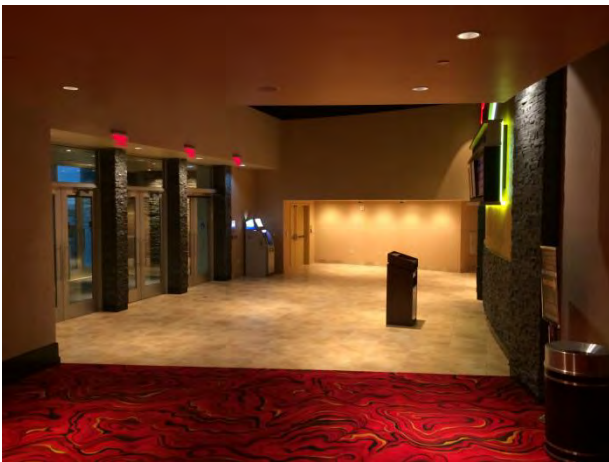
Porte Cochere



Exterior View



North Entry  
Racing Lobby



North Entry  
Racing Lobby





1776 Revolution Lounge



Slack's Oyster House & Grill



Flutie's Sports Pub



Flutie's Sports Pub



Gaming Floor



Gaming Floor



Conference Space in Racing Building



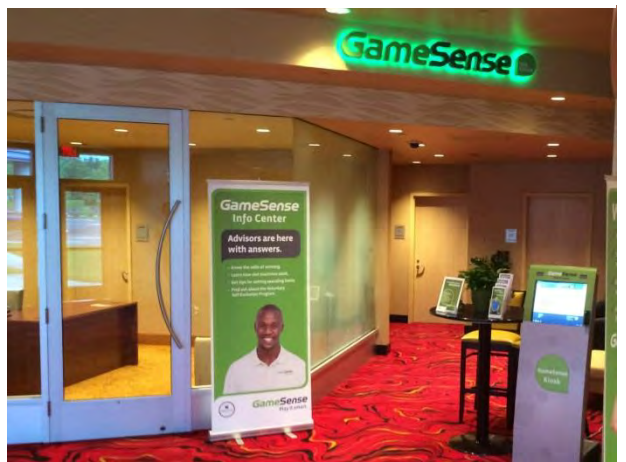
Simulcast



Racing Office Conference Room



Game Sense

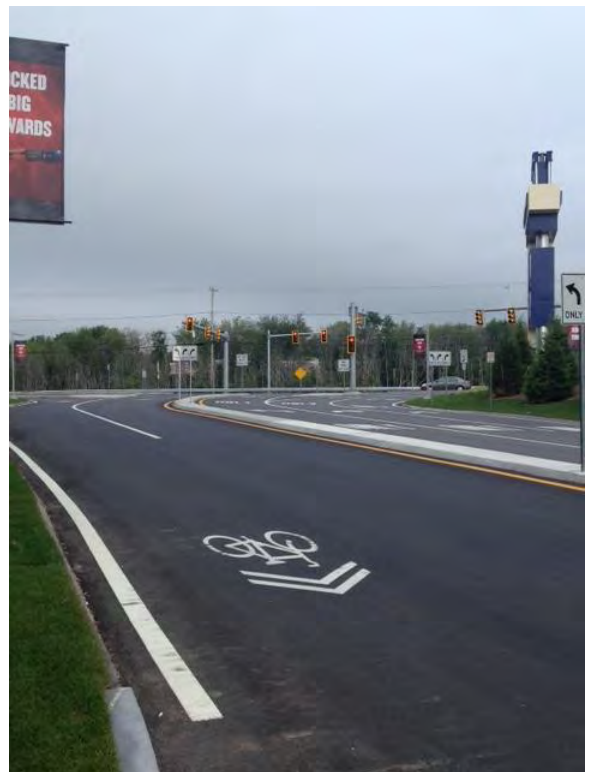


Racing Regulatory Building





MassDOT Improvements Photos Taken 7/6



## **APPENDIX 5**

**Plainridge Park Casino  
Quarterly Report to MGC  
Cost of Construction and Capitalization of Gaming Licensee  
As of June 30, 2015**

**Reference 205 CMR 135.02 – (5)(a)(b)**

Financial information requested by this section is currently being prepared by the licensee. Such information will be submitted to MGC concurrent with its release to the public, which is currently anticipated to be July 23, 2015.

**Plainridge Park Casino  
Quarterly Report to MGC  
Design and Construction Contracts  
As of June 30, 2015**

**Reference 205 CMR 135.02(5)(c)**

<b>LIST OF DESIGN AND CONSTRUCTION CONTRACTS ISSUED QUARTER ENDING JUNE 30, 2015</b>			
<u>Vendor/Contractor</u>	<u>Date</u>	<u>Services</u>	<u>MGC Status</u>
Dale Wibben Studio, LLC	04/09/15	Custom Memorabilia Cases	NGV - Registrant
Comtronics Wireless Communications	04/10/15	CCIP Agreement for Two Way Radio Install	NGV - Registrant
Gravotech, Inc.	04/20/15	Laser Engraving Equipment	NGV - Registrant
Advanced Gaming Associates, LLC	04/10/15	CCIP Agreement	VGP - Temporary
TC Millwork, Inc.	04/16/15	CCIP Agreement	NGV - Registrant
Jeffrey Donohoe Associates, LLC	04/17/15	Traffic Studies	Exempt
Alpha Video & Audio, Inc.	04/29/15	Software Services	NGV - Registrant
Traf-Sys, Inc.	05/04/15	Install of People Counting System	NGV - Registrant
Gerald Phelan	05/12/15	License Agreement	Exempt
NUCO, Inc.	05/19/15	Bulk CO2 provider	NGV - Registrant
Higgins Corporation	05/20/15	Datacard System Installation	NGV - Registrant
VisionSolutions	05/28/15	Software Services	NGV - Registrant
4028546 Canada, Inc. d/b/a iView Systems	05/29/15	Software Services	NGV - Registrant
Global Cash Access/NEWave Inc.	05/29/15	Software Services	VGP - Temporary
Kiosk Information Systems	06/08/15	Kiosk Installation	NGV - Registrant
eConnect	06/12/15	Software Installation	NGV - Pending
M.A.C. Graphics	06/18/15	Custom Vinyl Banners	NGV - Registrant

## APPENDIX 7

**Plainridge Park Casino  
Quarterly Report to MGC  
Status Report of Construction Activities  
As of June 30, 2015**

Reference 205 CMR 135.02 – (5)(d)

**Status Report Reflecting Progress of Construction**

Significant construction activities were completed as of June 19, 2015.

There are no significant construction activities remaining on the project; however, various minor punch list activities, training, and contractor closeouts are being completed.

**Areas of non-compliance with approved schedule**

- None

**Certification Statement**

I certify that construction activities through June 30, 2015, were completed in compliance with the project schedule approved by MGC on July 10, 2014.



John R. Rauen  
Authorized Representative  
Plainville Gaming and Redevelopment, LLC

## APPENDIX 8

### Plainridge Park Casino Quarterly Report to MGC Project Construction Work Force As of June 30, 2015

Reference 205 CMR 135.02 – (5)(e)

**Project Construction Workforce reports the following for WBE/MBE/VBE participation:**

Minority	17% participation to date vs. goal of 16%
Women	4% participation to date vs. goal of 7%
Veteran	7% participation to date vs. aspirational goal of 3%

**Detailed statistical reports attached:**

- Subcontractors Workforce Percentages
- Total Weekly Manpower Chart
- Workers Onsite by Company Log

**Deviation from established goals:**

Women	4% participation to date vs. goal of 7%
-------	---

The three percent cumulative shortfall of the women's workforce goal remains a result of the number of larger trade areas represented on the job (site, plumbing, electrical, drywall and mechanical). These trades have struggled to meet goal percentages to date due to the overall composition of their workforce in the general Massachusetts area, and therefore, the workforce available for the Plainridge casino project. However, the percentage has remained steady throughout the rise and fall of manpower during the entire construction project.

*SUBCONTRACTORS WORKFORCE PERCENTAGES ~ Plainridge Park Casino*

WEEK ENDING	SUBCONTRACTOR	THIS WEEKS HOURS	LAST WEEKS HOURS	Y-T-D JOB HOURS	Minority Y-T-D HOURS	LAST WEEK Minority %	THIS WEEK Minority %	Minority YEAR TO DATE %	Female Y-T-D HOURS	LAST WEEK Female %	THIS WEEK Female %	Female YEAR TO DATE %	Veteran Y-T-D HOURS	LAST WEEK Veteran %	THIS WEEK Veteran %	Veteran YEAR TO DATE %
6/21/2015	Turner Construction	935.0	703.0	24,685.0	6,330	15	8	26	2,540	9	7	10	127	7	8	1
6/21/2015	Marois Brothers	698.0	671.5	32,128.0	3,360	6	7	10	132.0	0	0	0	3,751	18	17	12
6/21/2015	S&F Concrete	45.5	105.5	6,697.5	618	0	0	9	0	0	0	0	0	0	0	0
6/21/2015	NB Kenney	93.0	359.0	30,464.5	1,814	0	0	6	2,385	11	0	8	4,444	13	47	15
FINAL	Prime Steel	154.5	0.0	6,393.5	768	0	0	12	389	0	0	6	169	0	0	3
6/21/2015	Ostrow Electrical	740.0	705.5	32,417.0	3,501	7	5	11	2,678	12	6	8	7,519	11	13	23
FINAL	Soini Erosion Control	0.0	0.0	16.0	16	0	0	100	0.0	0	0	0	0	0	0	0
FINAL	Melo's Rodbusters	0.0	0.0	1,424.0	218	0	0	15	323.0	0	0	23	0	0	0	0
FINAL	Kone	0.0	0.0	1,633.0	0	0	0	0	0	0	0	0	0	0	0	0
6/21/2015	Costa Brothers	66.0	8.0	8,724.5	576	0	12	7	0	0	0	0	1,616	0	27	19
FINAL	Willow Tree	0.0	0.0	200.0	72	0	0	36	0	0	0	0	0	0	0	0
FINAL	King Erectors	0.0	0.0	8,340.0	2,204	0	0	26	546	0	0	7	0	0	0	0
6/21/2015	Modern Glass	106.3	152.3	3,894.8	0	0	0	0	0	0	0	0	201	3	0	5
6/21/2015	Chapman Waterproofing	90.0	104.0	3,881.0	867	0	0	22	73	0	0	2	299	0	0	8
FINAL	TJ McCartney	0.0	0.0	14,888.5	4,120	0	0	28	0	0	0	0	682	0	0	5
FINAL	Pro Cut	0.0	0.0	457.0	0	0	0	0	0	0	0	0	0	0	0	0
FINAL	RM Technologies	0.0	0.0	4,277.0	2,900	0	0	68	0	0	0	0	35	0	0	1
6/21/2015	Arden Engineering	116.0	173.0	9,829.0	0	0	0	0	0	0	0	0	134	0	0	1
6/21/2015	Island International	32.0	38.0	10,242.0	2,100	0	0	21	0	0	0	0	736	0	0	7
FINAL	Clifford & Galvin	0.0	0.0	441.0	101	0	0	23	0	0	0	0	0	0	0	0
6/21/2015	Ryan Iron	75.0	61.0	4,154.0	177	0	0	4	0	0	0	0	0	0	0	0
6/21/2015	Titan Roofing	64.0	155.5	10,061.0	155	0	0	2	0	0	0	0	570	0	0	6
FINAL	DDS Industries	0.0	0.0	5,599.3	0	0	0	0	0	0	0	0	789	0	0	14
FINAL	Hallamore Corp	0.0	0.0	307.8	9	0	0	3	0	0	0	0	56	0	0	18
6/21/2015	Cox Engineering	56.0	200.0	32,119.5	3,619	20	71	11	0	0	0	0	2,421	0	0	8
6/21/2015	Coghlin Electric	2,474.5	2,277.0	72,845.5	9,542	15	74	13	2,994	3	3	4	4,546	5	4	6
6/21/2015	Commonwealth Scaffold	607.0	605.0	8,599.5	333	0	0	4	0	0	0	0	27	0	0	0
FINAL	Atlantic Contracting	0.0	0.0	689.0	0	0	0	0	0	0	0	0	0	0	0	0
FINAL	Reid Electric	0.0	0.0	552.0	0	0	0	0	0	0	0	0	552	0	0	100
FINAL	E.S. Boulos	0.0	0.0	3,382.0	398	0	0	12	0	0	0	0	170	0	0	5
6/21/2015	Soep Painting	296.0	1,320.0	11,538.0	2,545	22	24	22	224	0	0	2	0	0	0	0
FINAL	Roadsafe Traffic Safety	0.0	0.0	145.0	31	0	0	21	0.0	0	0	0	0	0	0	0
6/21/2015	H. Carr & Sons	268.0	706.0	43,108.5	14,550	43	17	34	1,223	0	0	3	1,124	0	0	3
6/21/2015	High Point Interiors	249.0	240.0	5,647.0	519	0	0	9	0	0	0	0	0	0	0	0
6/21/2015	Circle Floors	192.0	672.0	6,970.0	6,060	78	70	87	16	2	0	0	0	0	0	0
FINAL	New England Decks & Floors	27.0	63.0	4,099.0	916	17	15	22	0	0	0	0	139	0	0	3
6/21/2015	Frontline	617.5	650.0	5,204.0	1,193	21	16	23	1,747	33	32	34	0	0	0	0

*SUBCONTRACTORS WORKFORCE PERCENTAGES ~ Plainridge Park Casino*

WEEK ENDING	SUBCONTRACTOR	THIS WEEKS HOURS	LAST WEEKS HOURS	Y-T-D JOB HOURS	Minority Y-T-D HOURS	LAST WEEK Minority %	THIS WEEK Minority %	Minority YEAR TO DATE %	Female Y-T-D HOURS	LAST WEEK Female %	THIS WEEK Female %	Female YEAR TO DATE %	Veteran Y-T-D HOURS	LAST WEEK Veteran %	THIS WEEK Veteran %	Veteran YEAR TO DATE %
6/21/2015	Eaton Door	82.0	83.0	1,387.5	254	10	0	18	6	1	0	0	8	0	0	1
FINAL	Adirondack Studios	0.0	0.0	1,582.0	865	0	0	55	0	0	0	0	0	0	0	0
6/21/2015	Alleghany Millwork	231.0	347.0	6,845.0	162	0	0	2	0	0	0	0	906	12	21	13
6/21/2015	ValleyCrest Landscape	1,017.0	830.0	5,150.5	1,132	20	19	22	0	0	0	0	0	0	0	0
FINAL	PJ Keating	0.0	0.0	1,456.0	190	0	0	13	0	0	0	0	41	0	0	3
	TOTALS	9,332.3	11,229.3	432,475.3	72,211.6	18	12	17	15,275.0	4	4	4	31,058.8	4	6	7

	<u>Project Goals</u>	<u>Year To Date</u>
Minority	16%	17 %
Female	7%	4 %
Veteran	*Aspirational 3%	7 %



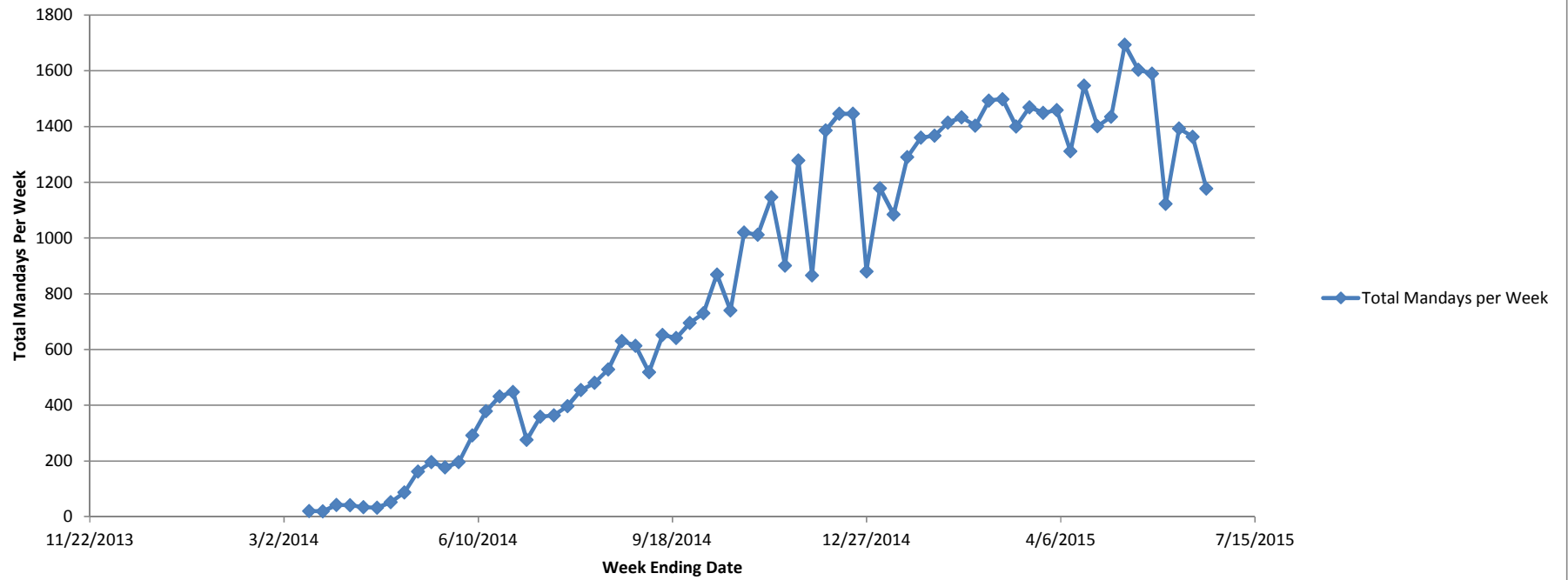
**WEEKLY HOURS AND PERCENTAGES ~ Plainridge Park Casino**

SUBCONTRACTOR	Minority HOURS	Minority %	Last week Minority %	Female HOURS	Female %	Last Week Female %	Veteran HOURS	Veteran %	Last Week Veteran %	TOTAL HOURS	Last Weeks Hour	Week Ending
Turner Construction	76	8	15.0	69.0	7	9	75.0	8	7	24685.0	703.0	6/21/2015
Marois Brothers	49	7	6.0	0.0	0	0	118.5	17	18	32128.0	671.5	6/21/2015
S&F Concrete	0	0	0.0	0.0	0	0	0.0	0	0	6697.5	105.5	6/21/2015
NB Kenney	0	0	0.0	0.0	0	11	44.0	47	13	30464.5	359.0	6/21/2015
Prime Steel	0	0	0.0	0.0	0	0	0.0	0	0	6393.5	0.0	FINAL
Ostrow Electrical	36	5	7.0	48.0	6	12	99.0	13	11	32417.0	705.5	6/21/2015
Soini Erosion Control	0	0	0.0	0.0	0	0	0.0	0	0	16.0	0.0	FINAL
Melo's Rodbusters	0	0	0.0	0.0	0	0	0.0	0	0	1424.0	0.0	FINAL
Kone	0	0	0.0	0.0	0	0	0.0	0	0	1633.0	0.0	FINAL
Costa Brothers Masonry	8	12	0.0	0.0	0	0	18.0	27	0	8724.5	8.0	6/21/2015
Willow Tree	0	0	0.0	0.0	0	0	0.0	0	0	200.0	0.0	FINAL
King Erectors	0	0	0.0	0.0	0	0	0.0	0	0	8340.0	0.0	FINAL
Modern Glass	0	0	0.0	0.0	0	0	0.0	0	3	3894.8	152.3	6/21/2015
Chapman Waterproofing	0	0	0.0	0.0	0	0	0.0	0	0	3881.0	104.0	6/21/2015
TJ McCartney	0	0	0.0	0.0	0	0	0.0	0	0	14888.5	0.0	FINAL
Pro Cut	0	0	0.0	0.0	0	0	0.0	0	0	457.0	0.0	FINAL
RM Technologies	0	0	0.0	0.0	0	0	0.0	0	0	4277.0	0.0	FINAL
Arden Engineering	0	0	0.0	0.0	0	0	0.0	0	0	9829.0	173.0	6/21/2015
Island International	0	0	0.0	0.0	0	0	0.0	0	0	10242.0	38.0	6/21/2015
Clifford & Galvin	0	0	0.0	0.0	0	0	0.0	0	0	441.0	0.0	FINAL
Ryan Iron	0	0	0.0	0.0	0	0	0.0	0	0	4154.0	61.0	6/21/2015
Titan Roofing	0	0	0.0	0.0	0	0	0.0	0	0	10061.0	155.5	6/21/2015
DDS Industries	0	0	0.0	0.0	0	0	0.0	0	0	5599.3	0.0	FINAL
Hallamore Corp	0	0	0.0	0.0	0	0	0.0	0	0	307.8	0.0	FINAL
Cox Engineering	40	71	20.0	0.0	0	0	0.0	0	0	32119.5	200.0	6/21/2015
Coghlin Electric	345	74	15.0	74.0	3	3	111.0	4	5	72845.5	2,277.0	6/21/2015
Commonwealth Scaffold	0	0	0.0	0.0	0	0	0.0	0	0	8599.5	605.0	6/21/2015
Atlantic Contracting	0	0	0.0	0.0	0	0	0.0	0	0	689.0	0.0	FINAL
Reid Electric	0	0	0.0	0.0	0	0	0.0	0	0	552.0	0.0	FINAL
ES Boulos	0	0	0.0	0.0	0	0	0.0	0	0	3382.0	0.0	FINAL
Soep Painting	72	24	22.0	0.0	0	0	0.0	0	0	11538.0	1,320.0	6/21/2015
Roadsafe Traffic Safety	0	0	0.0	0.0	0	0	0.0	0	0	145.0	0.0	FINAL

**WEEKLY HOURS AND PERCENTAGES ~ Plainridge Park Casino**

SUBCONTRACTOR	Minority HOURS	Minority %	Last week Minority %	Female HOURS	Female %	Last Week Female %	Veteran HOURS	Veteran %	Last Week Veteran %	TOTAL HOURS	Last Weeks Hour	Week Ending
H. Carr & Sons	45	17	43.0	0.0	0	0	0.0	0	0	43108.5	706.0	6/21/2015
High Point Interiors	0	0	0.0	0.0	0	0	0.0	0	0	5647.0	240.0	6/21/2015
Circle Floors	135	70	78.0	0.0	0	2	0.0	0	0	6970.0	672.0	6/21/2015
New England Decks & Floors	4	15	17.0	0.0	0	0	0.0	0	0	4099.0	63.0	FINAL
Frontline	96	16	21.0	200.0	32	33	0.0	0	0	5204.0	650.0	6/21/2015
Eaton Door	0	0	10.0	0.0	0	1	0.0	0	0	1387.5	83.0	6/21/2015
Adirondack Studios	0	0	0.0	0.0	0	0	0.0	0	0	1582.0	0.0	FINAL
Alleghany Millwork	0	0	0.0	0.0	0	0	49.0	21	12	6845.0	347.0	6/21/2015
ValleyCrest Landscape	196	19	20.0	0.0	0	0	0.0	0	0	5150.5	830.0	6/21/2015
PJ Keating	0	0	0.0	0.0	0	0	0.0	0	0	1456.0	0.0	FINAL
<b>TOTAL HOURS FOR THE WEEK</b>	<b>1101.5</b>			<b>391.0</b>			<b>514.5</b>			<b>432475.3</b>		
<b>TOTAL % FOR THE WEEK</b>	<b>12</b>			<b>4</b>			<b>6</b>					

## Plainridge Park Casino Total Weekly Manpower



The Total Mandays per Week is the sum of the total number of days worked by each worker in a given week.

<b>Plainridge Park Casino</b>	
<b>Cumulative individuals onsite through June 30, 2015.</b>	
<b>Company</b>	<b>Number of Workers</b>
AA Penta Corp	4
Aaxiom	3
ACS	1
Adirondack Studios	5
Adriana Studios	3
Advanced Gaming	5
AJ Conveyor	3
Aldon Electric	2
Amquip Crane	2
Arden Engineering	14
Atlantic	5
ATR Sales	3
Baldwin	2
Boston Lightning Rod	3
Briggs	3
Bristol Fire	1
Chapman	20
Circle Floors	19
Clifford & Galvin	5
Coghlin Electric	66
Coke	5
Colonial Systems	10
Commonwealth Scaffold	27
Cook Landclearing	2
Cosco Inc.	8
Costa	14
Cox Engineering	42
Currie	1
Dagle Electric	1
Daktronics	1
DDS	8
DeNuccio Inc.	1
Don Martin	11
Drain Shooter	1
E.S. Boulos	21
East Coast Interiors	27
Easybar	6
FEI	5
Ferrante MFG	3
Frontline	14
Glancy	4
Global Manufacturing	2
H. Carr & Sons	70
H.A.S.	2
Hallmore	3
Haron	1
HAS Construction	9
Heritage	2
High Point	2
High Voltage Maintenance	2
Hub Foundation	5
Imperatore	3
Island	13

<b>Plainridge Park Casino</b>	
<b>Cumulative individuals onsite through June 30, 2015.</b>	
<b>Company</b>	<b>Number of Workers</b>
JCJ Arch.	2
JME	1
Johnson Insul	3
King	18
Kone	6
Lemoi Erectors	2
MARR	3
MBI	39
MD Drilling	11
Melo Rod	12
Modern Glass	21
MTK Const.	4
NBK	53
NEFS	8
New England Decks	14
Ostrow	30
Penn Gaming	38
Perry Assoc.	1
Pinck	1
PJ Keating	10
Prime	18
Pro Cut	5
Reldom Corp. - Penn	2
Richard Reed Electric	1
RMT	17
Ryan Iron	15
S&F Concrete	69
S.O.S.	1
Security Fence	6
Soep Painting	27
Soini	5
Solaire Generation	2
Southwest Surveillance	1
Spraymaster Tech	5
Steelco	2
Sully Mac	10
Sweeney Drywall	6
Tango	4
TCM Millwork - Penn	1
Thyssen Krupp	6
Titan	33
TJ McCartney	55
Turner	51
Unistrut	1
Valley Crest	14
Ver-tex	6
W.S. Kenney	4
Waterman	1
Willow Tree	5
<b>Total</b>	<b>1150</b>

## APPENDIX 9

### Plainridge Park Casino Quarterly Report to MGC Contracts and Payments to Minority, Women and Veteran Business Enterprises for Construction Phase As of June 30, 2015

Reference 205 CMR 135.02 – (5)(f)

**Detailed statistical reports attached:**

M/W/VBE Tracking Report updated through 6/30/15

- Turner has issued \$97.5 million in construction contracts and change orders and received commitments of the following M/W/VBE participation:

Minority	10% participation to date vs. goal of 4%
Women	13% participation to date vs. goal of 7%
Veteran	9% participation to date vs. aspirational goal of 3%

**Actual Payments to Minority Business Enterprises**

- Commitments totaling \$30.8 million have been made to MBE/WBE/VBE enterprises.
- Turner Construction's pay application for June is still under review, in the normal course; therefore payment has not been made. MBE/WBE/VBE payment statistics are being reported as of May 31, 2015 which amounted to \$26 million (84% of commitments paid).

Updated: 5/31/2015

Trade	Contract Award Date	Award Amount	Revised Amount	Awarded Prime Subcontractor	MBE / WBE / VBE Opportunity	Updated At Award						Updated Prior to Start and During Construction						Updated as Payments Are Made		
						Original Commitment			Current Amount			Payments to Date								
						MBE	%	WBE	%	VBE	%	MBE	%	WBE	%	VBE	%	MBE	WBE	VBE
Existing Conditions Demo and Structure lower tier	05/16/14			Turner	None															
Temp Stair lower tier	05/16/14			Commonwealth	None															
Earthwork lower tier	04/11/14			Marois	Don Martin Corporation FC Corporation Security Fence Company Willow Tree Outdoor Markings, Inc. Dagle Electric Fabiano Oil		15% 6%						7%							
Earthwork - Garage lower tier	05/12/14			Marois	None															
Concrete lower tier	04/04/14			S&F	S&F Rebars and Mesh Melo's Rod Busters		88%						93%							
Concrete - Garage lower tier	05/12/14			S&F	S&F Rebars and Mesh Melo's Rod Busters		88%						60%							
Precast Garage	07/09/14			Blakeslee Prestress	None															
Demolition Award	07/16/14			R M Technologies	R M Technologies		100%						100%							
Masonry lower tier	06/10/14			Costa Brothers Masonry	Costa Brothers Masonry		100%						100%							
Steel Framing lower tier	04/11/14			Industries Canatal	Erection and Welding		11%						5%							
Misc Metal lower tier	07/09/14			Ryan Iron Works	None															
Damproofing & Waterproofing lower tier	06/19/14			Chapman	Gilbert & Becker Villanova Supplies Exchange		9%		3%				6%							
Membrane Roofing lower tier	05/16/14			Titan Roofing	Titan Roofing		100%						100%							
Spray on Fireproofing and Garage Spray Insulation lower tier	07/24/14			Island International	Iroquois Bar Corp		8%													
Spray Foam lower tier	06/17/14			Island International	Iroquois Bar Corp		2%													
Doors & Frames lower tier	09/10/14			Eaton Door and Frame	None															
Entrances Storefronts & Curtainwall lower tier	06/17/14			Modern Glass	Material Hardware Coulter Construction		9%		2%				7%							
Plaster & Gypsum Board lower tier	06/10/14			TJ McCartney	TJ McCartney				100%											







## APPENDIX 9

**Plainridge Park Casino  
Quarterly Report to MGC  
Contracts and Payments to Minority, Women and  
Veteran Business Enterprises for Design Phase  
As of June 30, 2015**

Reference 205 CMR 135.02 – (5)(f)

**Detailed statistical report:**

Minority	0% participation to date vs. goal of 4%
Women	0% participation to date vs. goal of 7%
Veteran	0% participation to date vs. aspirational goal of 3%

**Deviation from established goals:**

- Unique set of circumstances, as described in the June 30, 2014 quarterly report, remain the same.

**Actual Payments to Minority Business Enterprises**

Not Applicable

## APPENDIX 10

### Plainridge Park Casino Quarterly Report to MGC Permits As of June 30, 2015

Reference 205 CMR 135.02 – (6)

#### Permit Chart and Corresponding Documents (pursuant to 205 CMR 120.01)

Permit Status Report dated June 30, 2015 attached:

- Corrected the issue date for the Plainville Conservation Commission Order of Conditions permit for the Racing Building and Parking to February 26, 2015.
- Three new permits received from the Plainville Building Department:
  1. Temporary Occupancy Permit for Racing Regulatory Building issued on June 12, 2015.
  2. Certificate of Use and Occupancy Racing Regulatory Building issued on June 18 2015.
  3. 30 Day Temporary Certificate of Use and Occupancy for the casino building issued on June 19, 2015.
    - On July 16, 2015, the Temporary Certificate of Use and Occupancy certification was extended to July 27, 2015.
- As required for occupancy permit, all five elevators received certificates of operation and have been posted in each cab accordingly.
- Received Certificate of Operations from MGC on June 25, 2015

#### Updates to MassDOT/MEPA Process

- Received Substantial Completion Letter from MassDOT on June 18, 2015

#### Permit Appeals

- None

# Plainridge Park Casino Permit Status Report

*Report Updated June 30, 2015*

<u>PERMIT</u>	<u>DATE ISSUED</u>
1. <u>Plainville Conservation Commission</u>	
• Negative Determination of Applicability (sitework) (no number assigned)	10/23/2012
• Order of Conditions (electrical transformer substation) <b>Mass DEP File No. SE 265-0322</b>	11/19/2013
• Order of Conditions (additional surface parking) <b>Mass DEP File No. SE 265-0323</b>	11/19/2013
• Order of Conditions (offsite highway improvements) <b>Mass DEP File No. SE 265-0324</b>	11/19/2013
• Order of Conditions (Racing Building and Parking) <b>Mass DEP File No. SE 265-0333</b>	02/26/2015
2. <u>Plainville Board of Health</u>	
• Environmental Health Impact Permit (no number assigned)	07/09/2013
• Modified Environmental Health Impact Permit Stormwater Treatment Units (no number assigned)	08/11/2014
• Modified Environmental Health Impact Permit Buildings and Expanded Parking (no number assigned)	02/09/2015
3. <u>Plainville Planning Board</u>	
• Second Amended Special Permit (no number assigned)	08/29/2013
• Third Amended Special Permit (no number assigned)	02/12/2015
4. <u>Plainville Building Department</u>	
• Building Permit (Core Shell Structure) <b>Permit Number 14-134</b>	06/18/2014
• Building Permit (Simulcast Demolition) <b>Permit Number 14-153</b>	08/06/2014
• Building Permit (Parking Garage Transfer) <b>Permit Number 14-131A</b>	10/07/2014
• Building Permit (Casino Fitout) <b>Permit Number 14-257</b>	10/20/2014
• Temporary Certificate of Use and Occupancy (Garage) <b>Permit Number 14-257A</b>	02/24/2015
• Building Permit (Racing Regulatory Building) <b>Permit Number 15-80</b>	04/13/2015

Continued next page

Plainville Building Department (continued)

- Temporary Occupancy (Racing Regulatory Building) 06/12/2015  
**Permit Number 15-80**
- Certificate of Use and Occupancy (Racing Reg. Building) 06/18/2015  
**Permit Number 15-80**
- 30 Day Temporary Cert. of Use and Occupancy (Casino) 06/19//2015  
(no number assigned)

5. Mass. Department of Transportation (MassDOT)

- Attractions Guide Signage 09/05/2012  
**Permit Number 5-2012-0130**
- Section 61 Findings 10/07/2014  
(Reference MEPA EEA #11431)
- Soil Borings for Design and Signals 11/20/2014  
**Permit Number 5-2014-0506**
- Access, Highway and Traffic Signals 02/05/2015  
**Permit Number 5-2014-0416**
- Break in Access Approval 05/05/2015  
**Permit Number F.A.P.: I-495-5(14)11**
- Substantial Completion Letter 06/18//2015  
**Permit Number 5-2014-0416**

6. Mass. Division of Fisheries and Wildlife (Mass DFW)

- Confirmation of “No-Take” Letter under Mass. 04/12/2013  
Natural Heritage and Endangered Species Program  
**NHESP Tracking No. 10-27867**

7. Mass. Exec. Office of Energy & Environmental Affairs

- Certificate of the Secretary of Energy and Environ – 12/27/2013  
mental Affairs on the Final Environmental Impact  
Report under the Massachusetts Environmental Policy  
Act (MEPA FEIR)  
**EEA Number 11431**
- E-mail from MEPA Director 10/01/2014  
N-Grid Distribution Line to MITS – no review required  
**EEA Number 11431**

8. U. S. Environmental Protection Agency (US EPA)

- Confirmation of No Permit Required under the 06/12/2013  
National Pollutant Discharge Elimination System  
(NPDES) Permitting requirements

9. Massachusetts Gaming Commission

- Category 2 Gaming License 02/28/2014  
(no number assigned)
- Section 61 Findings 12/31/2014  
(Reference MEPA EEA #11431)
- Certificate of Operations 06/25/2015  
(Reference Category 2 Gaming License)

10. U. S. Department of Transportation

- Federal Highway Administration, Massachusetts Division 03/20/2015  
Individual Categorical Exclusion (HDA-MA)

Pending Project Permits: None

END OF DOCUMENT



## **APPENDIX 11**

**Plainridge Park Casino  
Quarterly Report to MGC  
Notice to Organized Labor  
As To Licensees Commitments for Affirmative Action  
As of June 30, 2015**

**Reference 205 CMR 135.02 – (7)**

No change from last quarter. Remained in compliance with licensing requirements and commitments pursuant to MGL. C23K various sections.

Turner's relationship with the Business Agents and Managers remained positive and receptive throughout the construction project and they continued to be cooperative in reinforcing the goals of 16% minority, 7% female and 3% aspirational veterans.

## APPENDIX 12

### Plainridge Park Casino Quarterly Report to MGC Operational Affirmative Action Plan As of June 30, 2015

Reference 205 CMR 135.02 – (8)

#### Detailed Statistical Report Attached:

- Plainville Gaming and Redevelopment made commitments totaling \$15 million for the provision of goods and services and received the following M/W/VBE participation:

Minority	3% participation to date vs. goal of 6%
Women	19% participation to date vs. goal of 12%
Veteran	14% participation to date vs. aspirational goal of 3%

- Plainville Gaming and Redevelopment continues to reach out to M/W/VBE enterprises to identify any further opportunities for participation.

#### Actual Payments to Minority Businesses

- As of June 30, 2015, total commitments of \$5.4 million have been made to M/W/VBE enterprises.
- Through June 30, 2015, payments to M/W/VBE enterprises amounted to \$4.1 million (77% of commitments paid).

#### Vendor Outreach Programs:

- No outreach programs held during this quarter.

# Plainridge, Mass - Diversity Reporting

## Furniture, Fixtures and Equipment Only

### Based on Wennsoft Commitments

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#### C.E. Communication Services, Inc.

PO Number	Purchase Order Total	MBE	WBE	VBE
PR0232	\$1,683.13	\$0.00	\$1,683.13	\$0.00
PR0220	\$4,566.78	\$0.00	\$4,566.78	\$0.00
PR0221	\$6,879.60	\$0.00	\$6,879.60	\$0.00
PR0225	\$3,748.50	\$0.00	\$3,748.50	\$0.00
PR0231	\$5,521.15	\$0.00	\$5,521.15	\$0.00
PR0239	\$12,328.52	\$0.00	\$12,328.52	\$0.00
PR0264	\$13,854.32	\$0.00	\$13,854.32	\$0.00
PR0273	\$9,784.76	\$0.00	\$9,784.76	\$0.00
	\$58,366.76	\$0.00	\$58,366.76	\$0.00

#### Comtronics Corp.

PO Number	Purchase Order Total	MBE	WBE	VBE
PR0176	\$0.00	\$0.00	\$0.00	\$0.00
PR0201	\$213,156.23	\$0.00	\$213,156.23	\$0.00
	\$213,156.23	\$0.00	\$213,156.23	\$0.00

#### E.GADS, LLC

PO Number	Purchase Order Total	MBE	WBE	VBE
PR0163	\$1,258,728.00	\$0.00	\$1,258,728.00	\$0.00
	\$1,258,728.00	\$0.00	\$1,258,728.00	\$0.00

#### Easybar

PO Number	Purchase Order Total	MBE	WBE	VBE
PR0064	\$289,424.63	\$0.00	\$289,424.63	\$0.00
	\$289,424.63	\$0.00	\$289,424.63	\$0.00

#### Kittredge Equipment Co. Inc.

PO Number	Purchase Order Total	MBE	WBE	VBE
PR0265	\$1,420.65	\$0.00	\$1,420.65	\$0.00
PR0249	\$332,687.20	\$0.00	\$332,687.20	\$0.00
PR0184	\$4,316.60	\$0.00	\$4,316.60	\$0.00

PR0144	\$44,704.56	\$0.00	\$44,704.56	\$0.00
PR0289	\$2,609.42	\$0.00	\$2,609.42	\$0.00
PR0280	\$17,736.45	\$0.00	\$17,736.45	\$0.00
PR0145	\$1,054.01	\$0.00	\$1,054.01	\$0.00
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	\$404,528.89	\$0.00	\$404,528.89	\$0.00

**Macgraphics**

<b>PO Number</b>	<b>Purchase Order Total</b>	<b>MBE</b>	<b>WBE</b>	<b>VBE</b>
PR0284	\$2,405.50	\$0.00	\$2,405.50	\$0.00
PR0228	\$2,050.65	\$0.00	\$2,050.65	\$0.00
PR0303	\$10,081.63	\$0.00	\$10,081.63	\$0.00
	<hr/>			
	\$14,537.78	\$0.00	\$14,537.78	\$0.00

**Menu Solutions, Inc.**

<b>PO Number</b>	<b>Purchase Order Total</b>	<b>MBE</b>	<b>WBE</b>	<b>VBE</b>
PR0277	\$5,708.64	\$0.00	\$0.00	\$5,708.64
	<hr/>			
	\$5,708.64	\$0.00	\$0.00	\$5,708.64

**Milhench Supply Co.**

<b>PO Number</b>	<b>Purchase Order Total</b>	<b>MBE</b>	<b>WBE</b>	<b>VBE</b>
PR0310	\$7,032.25	\$0.00	\$7,032.25	\$0.00
PR0155	\$38,740.05	\$0.00	\$38,740.05	\$0.00
PR0312	\$1,209.83	\$0.00	\$1,209.83	\$0.00
PR0233	\$4,957.81	\$0.00	\$4,957.81	\$0.00
PR0262	\$15,598.54	\$0.00	\$15,598.54	\$0.00
PR0299	\$4,913.05	\$0.00	\$4,913.05	\$0.00
PR0296	\$4,801.74	\$0.00	\$4,801.74	\$0.00
PR0276	\$3,700.50	\$0.00	\$3,700.50	\$0.00
PR0275	\$8,034.65	\$0.00	\$8,034.65	\$0.00
	<hr/>			
	\$88,988.42	\$0.00	\$88,988.42	\$0.00

**MOMSOUTH**

<b>PO Number</b>	<b>Purchase Order Total</b>	<b>MBE</b>	<b>WBE</b>	<b>VBE</b>
PR0309	\$18,856.42	\$0.00	\$0.00	\$18,856.42
	<hr/>			
	\$18,856.42	\$0.00	\$0.00	\$18,856.42

**New England Office Supply**

<b>PO Number</b>	<b>Purchase Order Total</b>	<b>MBE</b>	<b>WBE</b>	<b>VBE</b>
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PR0268	\$6,141.25	\$6,141.25	\$0.00	\$0.00
PR0186	\$2,735.83	\$2,735.83	\$0.00	\$0.00
PR0297	\$1,089.06	\$1,089.06	\$0.00	\$0.00
PR0218	\$2,398.18	\$2,398.18	\$0.00	\$0.00
PR0137	\$531.23	\$531.23	\$0.00	\$0.00
PR0103	\$0.00	\$0.00	\$0.00	\$0.00
PR0250	\$3,902.49	\$3,902.49	\$0.00	\$0.00
PR0313	\$1,338.21	\$1,338.21	\$0.00	\$0.00
PR0066	\$380,773.81	\$380,773.81	\$0.00	\$0.00
PR0290	\$2,831.53	\$2,831.53	\$0.00	\$0.00
	<hr/>			
	\$401,741.59	\$401,741.59	\$0.00	\$0.00

### Norfolk Power Equipment, Inc.

PO Number	Purchase Order Total	MBE	WBE	VBE
PR0254	\$105,161.98	\$0.00	\$105,161.98	\$0.00
PR0246	\$14,556.25	\$0.00	\$14,556.25	\$0.00
	<hr/>			
	\$119,718.23	\$0.00	\$119,718.23	\$0.00

### NoUVIR Lighting Corporation

PO Number	Purchase Order Total	MBE	WBE	VBE
PR0165	\$37,058.91	\$0.00	\$37,058.91	\$0.00
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	\$37,058.91	\$0.00	\$37,058.91	\$0.00

### One Way Development, Inc.

PO Number	Purchase Order Total	MBE	WBE	VBE
PR0282	\$4,522.23	\$4,522.23	\$0.00	\$0.00
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	\$4,522.23	\$4,522.23	\$0.00	\$0.00

### PC Innovations of Rochester Inc.

PO Number	Purchase Order Total	MBE	WBE	VBE
PR0189	\$9,170.00	\$0.00	\$9,170.00	\$0.00
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	\$9,170.00	\$0.00	\$9,170.00	\$0.00

### Service Central Inc.

PO Number	Purchase Order Total	MBE	WBE	VBE
PR0292	\$2,376.25	\$0.00	\$2,376.25	\$0.00
PR0157	\$36,469.81	\$0.00	\$36,469.81	\$0.00
PR0208	\$2,428.26	\$0.00	\$2,428.26	\$0.00

PR0138	\$88,667.42	\$0.00	\$88,667.42	\$0.00
PR0215	\$5,688.66	\$0.00	\$5,688.66	\$0.00
PR0240	\$22,353.17	\$0.00	\$22,353.17	\$0.00
PR0164	\$10,475.24	\$0.00	\$10,475.24	\$0.00
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	\$168,458.81	\$0.00	\$168,458.81	\$0.00

**Solutions 4 Networks, Inc.**

<b>PO Number</b>	<b>Purchase Order Total</b>	<b>MBE</b>	<b>WBE</b>	<b>VBE</b>
PR0078	\$11,870.17	\$0.00	\$11,870.17	\$0.00
PR0094	\$38,782.20	\$0.00	\$38,782.20	\$0.00
PR0095	\$1,478.56	\$0.00	\$1,478.56	\$0.00
PR0119	\$27,949.92	\$0.00	\$27,949.92	\$0.00
PR0118	\$72,959.29	\$0.00	\$72,959.29	\$0.00
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	\$153,040.14	\$0.00	\$153,040.14	\$0.00

**Southwest Surveillance Systems**

<b>PO Number</b>	<b>Purchase Order Total</b>	<b>MBE</b>	<b>WBE</b>	<b>VBE</b>
PR0067A	\$2,135,550.00	\$0.00	\$0.00	\$2,135,550.00
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	\$2,135,550.00	\$0.00	\$0.00	\$2,135,550.00

**Grand Total**                      \$5,381,555.68              \$406,263.82              \$2,815,176.80              \$2,160,115.06

<b>Total Wennsoft Commitments To Date</b>	\$15,072,173	3% <b>MBE</b>	19% <b>WBE</b>	14% <b>VBE</b>
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## Amended Small Business Impact Statement

The Massachusetts Gaming Commission (“Commission”) hereby files this amended small business impact statement in accordance with G.L. c.30A, §5 relative to the proposed new regulations in 205 CMR 139.00: Continuing Disclosure and Reporting Obligations of Gaming Licensees, for which a public hearing was held on April 23, 2015. These regulations were developed as part of the process of promulgating regulations governing the operation of gaming establishments in the Commonwealth. These regulations govern the requirements and procedures for continuing disclosure and reporting of financial and governing documents by the gaming licensees. The proposed regulations are largely directed by G.L. c.23K, §§ 5, 21, 23, 28, 29, and 65.

These new regulations apply directly to the gaming licensees. Accordingly, these regulations are unlikely to have an impact on small businesses. In accordance with G.L. c. 30A, §5, the Commission offers the following responses on whether any of the following methods of reducing the impact of the proposed regulation on small businesses would hinder achievement of the purpose of the proposed regulation:

1. Establishing less stringent compliance or reporting requirements for small businesses:

As a general matter, no small businesses will be impacted by these regulations. Accordingly, there are no less stringent compliance or reporting requirements for small businesses.

2. Establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses:

There are no schedules or deadlines for compliance or reporting requirements for small businesses created by these regulations.

3. Consolidating or simplifying compliance or reporting requirements for small businesses:

There are no compliance or reporting requirements for small businesses.

4. Establishing performance standards for small businesses to replace design or operational standards required in the proposed legislation:

There are no performance standards for small businesses to replace design or operational standards required in the proposed regulations.



Massachusetts Gaming Commission



5. An analysis of whether the proposed regulation is likely to deter or encourage the formation of new businesses in the Commonwealth:

M.G.L. c.23K was enacted to create a new industry in the Commonwealth and to promote and grow local small businesses and the tourism industry, including the development of new small businesses. The proposed regulations are designed to effectuate those intentions and growth. Furthermore, regulations of this sort are mandated by statute and common in the gaming industry.

6. Minimizing adverse impact on small businesses by using alternative regulatory methods:

There are no alternative regulatory methods to minimize adverse impacts on small businesses.

Massachusetts Gaming Commission  
By:

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Cecelia M. Porché  
Paralegal/Legal Division

Dated:



Massachusetts Gaming Commission

205 CMR: MASSACHUSETTS GAMING COMMISSION  
205 CMR 139.00: CONTINUING DISCLOSURE AND REPORTING OBLIGATIONS OF  
GAMING LICENSEES

Section

- 139.01: Access to premises and production of records
- 139.02: Non-disclosure agreements
- 139.03: Fiscal year
- 139.04: Reports and information to be filed with the commission
- 139.05: Reports and information to be compiled and maintained by the gaming licensee
- 139.06: Quarterly report
- 139.07: Annual audit and other reports
- 139.08: Audit of gaming licensee operations by commission
- 139.09: Capital expenditure plan

139.01: Access to premises and production of records

The commission shall have access to, and may inspect the premises of the gaming establishment and/or request the production of records of the gaming licensee in accordance with 205 CMR 142.00: *Regulatory Monitoring and Inspections*.

139.02: Non-disclosure agreements

All documents submitted by a gaming licensee or obtained by the commission in accordance with 205 CMR 139.00 shall be deemed to have been submitted pursuant to a gaming related investigation to ensure compliance with M.G.L. c. 23K and 205 C MR, adherence to the principles articulated in M.G.L. c.23K, §1, and/or to ensure the ongoing suitability of gaming licensees in Massachusetts. Accordingly, pursuant to M.G.L. c.23K, §21(a)(7) any information or reports, or parts thereof, that are required to be filed or otherwise submitted to or obtained by the commission, the IEB, or their respective agents, in accordance with 205 CMR 139.00 that contain material or information that the gaming licensee considers a trade secret or believes would be detrimental to the gaming licensee if it were made public may be identified as confidential by the gaming licensee. Pursuant to M.G.L. c.23K or 205 CMR 139.00 the gaming licensee may request that the commission enter into a written nondisclosure agreement under the terms of which the commission agrees not to release the specified material or information publicly, in response to a request for public records or otherwise, and will assert the statutory exemption, M.G.L. c.4, §7(26)(a), and/or any other applicable exemptions, and withhold the applicable materials in response to any request for such record or information. The agreement may provide for coverage for specific materials or information, or categories of materials or information, which will be, or are likely to be, submitted to or obtained by the commission on more than one occasion. A request for a non-disclosure agreement shall be on a form provided by the commission. Upon review of the gaming licensee's request, the commission may execute such an agreement in its discretion. In lieu of withholding a record in its entirety, the gaming licensee and the commission may agree that that the material or information be publicly released in a redacted form, an aggregated fashion, or in other agreed upon manner. Nothing contained in

205 CMR 139.02, nor in an executed non-disclosure agreement, shall be construed so as to prevent the commission from making use of any information or material as part of an investigation, disciplinary matter, or otherwise as deemed necessary by the commission.

139.03: Fiscal year

The gaming licensee shall establish a fiscal year for accounting purposes and shall advise the commission of such.

139.04: Reports and information to be filed with the commission

The following reports and information shall be filed with the commission, or its designee, in the manner and time provided:

- (1) Pursuant to M.G.L. c. 23K, § 21(a)(12), a detailed annual, and at other times as directed by the commission, statistical report on the number, job titles, benefits, race, gender, veteran status, and salaries of employees hired and retained in employment at the gaming establishment.
- (2) Pursuant to M.G.L. c. 23K, § 21(a)(23), on a quarterly basis, a detailed statistical report, on the number, gender, race, and veteran status of individuals hired to perform labor as part of the construction of the gaming establishment. For purposes of this paragraph, the term “construction” shall, unless the context clearly requires otherwise, include all major stages of design and construction; including all permitting and approvals, design deliverables, site preparation, foundation, structure, plumbing, electrical, mechanical, exterior finish and fenestration, long lead items, insulation, interior finish and furnishings and landscaping, building commissioning and commissioning of gaming equipment and information technology systems; and shall further include the initial and subsequent periods in which any structures upon a licensee’s gaming establishment are altered, converted, fitted out, commissioned, renovated, repaired, maintained, demolished, decommissioned, or dismantled by through utilization of net gaming revenue in accordance with the capital expenditure plan under 139.09.
- (3) Pursuant to M.G.L. c. 23K, § 21(a)(24), a detailed annual, and at other times as directed by the commission, statistical report on the total dollar amounts contracted with and actually paid to minority business enterprises, women business enterprises and veteran business enterprises in:
  - (a) Design contracts;
  - (b) Construction contracts (as the term ‘construction’ is defined in accordance with 205 CMR 139.04(2)); and
  - (c) Contracts for every good and service procured by the gaming establishment.

The annual statistical report shall also identify the amounts so contracted as a percentage of the total dollar amounts contracted with and actually paid to all firms.

- (4) Pursuant to M.G.L. c. 23K, §23(a) on an annual basis, and at other times as directed by the commission, a report explicitly stating the gaming licensee's progress on meeting each of the stated goals and stipulations put forth in its RFA-2 application, including compliance with any executed impacted live entertainment venue agreements;
- (5) Reports prescribed in accordance with 205 CMR 138.05(2) relative to registered and licensed employees;
- (6) Daily, monthly, and annual gross gaming revenue remittance and reconciliation reports required in accordance with 205 CMR 140.00: *Gross Gaming Revenue Tax Remittance and Reporting*. Monthly gross gaming revenue reports shall include statistics relative to the drop/handle, win or loss, and win or loss percentage relative to slot machines played in the gaming establishment for the month. The commission shall make the monthly slot machine payback statistics publicly available on its official website.
- (7) Promptly upon discovery, the gaming licensee shall notify the commission's on-site gaming agent and/or member of the Gaming Enforcement Unit assigned to the gaming establishment of any violation, or suspected violation, of M.G.L. c. 23K, 205 CMR, and/or any gaming related law and file any requested written report.
- (8) By the 10<sup>th</sup> day of each month, an underage person report with the IEB containing the information required in accordance with 205 CMR 150.05: *Reporting Requirements Related to Minors and Underage Persons*.
- (9) A gaming licensee shall promptly notify the commission's on-site gaming agent and/or member of the Gaming Enforcement Unit assigned to the gaming establishment, if an individual on the voluntary self-exclusion list established in accordance with 205 CMR 133.00: *Voluntary Self-Exclusion* is found in the gaming area of a gaming establishment or any area in which pari-mutuel or simulcasting wagers are placed.
- (10) Any declared event of default related to any debt obligation maintained by the gaming licensee, affiliate, holding company or intermediary company thereof shall be immediately reported to the commission, in writing, along with any plans to address or cure such default.
- (11) Quarterly reports of the gaming licensee in accordance with 205 CMR 139.06.
- (12) If the gaming licensee elects to establish a capital expenditure plan in accordance with M.G.L. c.23K, §21(a)(4) and 205 CMR 139.09, in lieu of making annual improvements to its gaming establishment, such plan shall be submitted to the commission for approval and updates included in the gaming licensee's quarterly report in accordance with 205 CMR 139.06.
- (13) Documents and other materials required to be submitted in accordance with the terms of the gaming licensee's gaming license.
- (14) A gaming licensee's system of internal controls approved in accordance with 205 CMR 138.02, amendments thereto, and any documents or information required to be submitted in accordance with the approved system of internal controls.

139.05: Reports and information to be compiled and maintained by the gaming licensee

The following reports and information shall be compiled and maintained by the gaming licensee,

or where applicable the gaming licensee's holding company, intermediary company, qualifying subsidiary, or entity qualifier thereof, in the manner provided as follows or as required by the governing body responsible for the oversight of the subject information, and shall be made available and provided upon request by the commission, or its designee:

- (1) Up to date records regarding the business structure, capital structure, and controlling interest of the gaming licensee, where applicable, and the gaming licensee's holding company, intermediary company, qualifying subsidiary, or entity qualifier thereof, including, at a minimum:
  - (a) Certified copies of incorporation and formation documents and any amendments thereto;
  - (b) By-laws, shareholders agreements, governing and/or operating agreements or documents, partnership agreement, intercompany transactions, joint venture agreements, merger and acquisition agreements, and other relevant corporate documents.;
  - (c) Current listing of officers, directors, members, partners;
  - (d) Minutes of all meetings of shareholders;
  - (e) Detailed records regarding all record and beneficial owners of any class of non-publicly traded securities, including both equity and debt securities, issued by the gaming licensee, its holding company, intermediary company, qualifying subsidiary or entity qualifier thereof, including the names and addresses of record and beneficial owners of such equity or debt securities, date(s) acquired and the number of equity securities held or face amount of debt securities held, as applicable;
  - (f) Detailed records regarding all record and beneficial owners of 5% or more of any class of publicly traded securities, including both equity and debt securities, issued by the gaming licensee, its holding company, intermediary company, qualifying subsidiary or entity qualifier thereof, including the names and addresses of record and beneficial owners of such equity or debt securities held in street name or other name, date(s) acquired and the number of equity securities held or face amount of debt securities held, as applicable;
  - (g) Detailed records regarding distributions to equity holders holding 5% or more of the entity;
  - (h) Detailed records regarding all remuneration paid to officers, directors, partners and members;
  - (i) (for the gaming licensee only) Detailed records regarding all capital contributions;
  - (j) (for the gaming licensee only) Detailed records regarding any equity transfers;
  - (k) Essential details of any debt obligations including loans, covenants, borrowings, installment contracts, guarantees, leases, or any other debt; and
  - (l) Any other records as the commission deems appropriate.
  
- (2) Copies of any securities filings submitted to federal, state, or other domestic or foreign securities regulatory authorities, regarding any of the securities, either in existence or proposed, including, but not limited to, United States Securities and Exchange Commission forms S-1, 8-K, 10-Q and 10-K, proxy or information statements and all registration statements filed by the gaming licensee, or holding company, intermediary company, qualifying subsidiary and entity qualifier thereof.

- (3) Copies of any United States Securities and Exchange Commission Schedules 13D or 13G served upon the gaming licensee, or holding company, intermediary company, qualifying subsidiary and entity qualifier thereof.
- (4) Copies of the federal and state tax returns and any related forms filed by the gaming licensee, and its holding company, intermediary company, qualifying subsidiary or entity qualifier thereof.
- (5) The system of financial accounting, in accordance with generally accepted accounting principles, to be utilized by the gaming licensee designed to ensure the accurate recording and reporting its assets, liabilities, equity, revenue and expenses. The gaming licensee's system of financial accounting shall provide a level of detail so as to allow it to accurately compute gross gaming revenue in accordance with M.G.L. c.23K, §2 and 205 CMR 140.02, and to report the gaming licensee's drop, win, and hold percentage for each form of gaming activity, the value of complimentary goods or services and promotional gaming credits issued during the accounting period, and any other information necessary to allow the commission to understand the gaming licensee's results of operations. The gaming licensee shall maintain detailed information and documentation to support all amounts reported to the commission as being the gaming licensee's assets, liabilities, equity, revenue and expenses.
- (6) Data derived from the gaming licensee's player card/rewards card/loyalty program, cashless wagering system, player tracking software, or other similar information systems including:
  - (a) Pursuant to M.G.L. c.23K, §§ 21(a)(15) and 29, the amount of money spent and lost on gaming (excluding the value of promotional gaming credits played, but including any amounts that were subject to discretionary discounting for marketing or other similar purposes) by patrons at the gaming establishment who have been issued a player card or rewards card or who participated in a cashless wagering system, aggregated by, at a minimum, the patron's age, gender and home zip code provided by the patron and compiled on an annual basis or as otherwise directed by the commission.
  - (b) Pursuant to St. 2011, c. 194, §97, information, compiled by year, on player characteristics for patrons of the gaming establishment including, but not limited to, gender, age and region of residence, player behavior including, but not limited to, frequency of play, length of play, speed of play, denomination of play, amounts wagered at the gaming establishment and, if applicable, number of lines or hands played and characteristics of games played including, but not limited to, reel configuration, return-to-player or RTP, volatility index and denomination.
- (7) Pursuant to M.G.L. c.23K, §28(b), a quarterly report, covering all complimentary services offered or engaged in by the gaming licensee during the immediately preceding quarter. The reports shall identify regulated complimentary services or items including, but not limited to, food and beverage, hotel and travel accommodations, and promotional gaming credits. The reports shall be aggregated by, at a minimum, the costs of the complimentary services or items, and the number of people who received each service or item for the quarter. The report shall also document any services or items valued in excess of \$2,000 that were provided to patrons, including detailed reasons as to why they were provided. Valuation shall be performed in accordance with M.G.L. c.23K, §28(c).
- (8) The gaming licensee's Disbursement Report relative to vendors in accordance with 205 CMR

138.06(2);

- (9) Counter check information maintained by the gaming licensee in accordance with 205 CMR 138.43(2)(l)-(n).
- (10) An annual business plan for the gaming licensee, which will include financial projections in a format as prescribed by the commission no later than 30 days prior to the commencement of the fiscal year.
- (11) A compliance plan and any amendments thereto, for the gaming licensee and its holding company or intermediary company outlining the practices and protocols implemented, or to be implemented, designed to ensure compliance with all applicable federal or state laws.
- (12) Copies of the minutes of all board of directors or equivalent governing authority meetings ~~and committee meetings including the audit and compliance committee meeting minutes pursuant to 205 CMR 138.04(2)(g) and (h), for the gaming licensee or holding company or intermediary company thereof. The commission may request such minutes in draft form followed by final minutes when formally approved. Where applicable, the commission may request that it be provided access to only those portions of the minutes that relate to the gaming licensee and not to the parent or holding company as a whole or to other properties owned or operated by the parent or holding company.~~

139.06: Quarterly reports

- (1) On a quarterly basis, the gaming licensee shall create a report that provides a continuing view of the gaming licensee's financial position including key performance measures, narrative commentary on operating results, and where applicable, the capital reserve account contributions made in accordance with the plan submitted pursuant to 205 CMR 139.09. The quarterly report shall be attested to by any two of the following: the Chief Executive Officer, Chief Gaming Executive, Chief Financial Officer, Treasurer, Financial Director, Controller, or their functional equivalent.
- (2) The quarterly report required in accordance with 205 CMR 139.06(1) shall be accompanied by a statement attested to by the gaming licensee's Chief Financial Officer, or their functional equivalent, that the gaming licensee satisfies the following:
  - (a) It has maintained for the previous quarter, and has the ability to maintain for the upcoming quarter, a gaming bankroll or equivalent provisions adequate to pay winning wagers to gaming patrons when due.
  - (b) It has paid in the previous quarter and has the ability to pay when due all local, state and federal taxes, including the tax on gross gaming revenues imposed by M.G.L. c.23K, §55 and any fees imposed under M.G.L. c.23K or 205 CMR.
  - (c) It has the ability to make annual capital expenditures to its gaming establishment in a minimum aggregate amount equal to 3.5 per cent of the net gaming revenues derived from the establishment or in accordance with a multi-year capital expenditure plan approved by the commission pursuant to M.G.L. c.23K, §21(a)(4) and 205 CMR 139.09.
  - (d) It has the ability to pay, exchange, refinance or extend debts, including long-term and short-term principal and interest and capital lease obligations, which will mature or otherwise come due and payable during the license term, or to otherwise manage such debts and any default with respect to such debts.

### 139.07: Annual audit and other reports

- (1) On an annual basis a gaming licensee shall, at its own expense, cause an audit to be prepared by an independent certified public accountant of its financial statements relevant to the operation of its Massachusetts gaming establishment. The gaming licensee may satisfy this requirement by submission of the audit of the consolidated financial statement, including applicable notes, of the gaming licensee's holding company or intermediary company provided that such audit is accompanied by a supplemental information, appendix, or other financial information section specific to the gaming licensee which includes an audited financial statement containing, at a minimum, a balance sheet, income statement, and a statement of cash flows for the gaming licensee. In either event, the independent certified public accountant shall attest to the financial condition of the gaming licensee, disclose whether the accounts, records and control procedures examined are maintained by the gaming licensee as required by M.G.L. c.23K and 205 CMR, and opine as to whether there are material weaknesses in the gaming licensee's system of internal controls.

In the event that the independent certified public accountant makes recommendations to improve the system of internal controls, or to increase the gaming licensee's level of compliance, the gaming licensee's Chief Financial Officer shall respond, in writing, to the recommendations of the independent certified public accountant and provide the commission with a copy of its response.

- (2) To ensure the independence of the annual audit, at least every five years a gaming licensee, whose holding company or intermediary company is not publicly traded, shall rotate the lead (or coordinating) audit partner having primary responsibility for the audit, and the audit partner responsible for reviewing the audit. For a gaming licensee, whose holding company or intermediary company is publicly traded, lead (or coordinating) audit partner rotation shall comply with the requirements of federal law, including the requirements of the United States Securities and Exchange Commission and/or the Public Company Accounting Oversight Board.
- (3) In the event the annual audited financial statements differ from financial statements maintained by the gaming licensee throughout the year, the gaming licensee shall provide a summary of these differences as part of the annual audit.
- (4) The annual audit and associated statements required in accordance with 205 C MR 139.07(1) shall be filed with the commission within 3 months following the end of the quarter following the end of the gaming licensee's fiscal year.
- (5) In cases where a gaming licensee's parent or holding company is not publicly traded, in the event the gaming licensee's independent certified public accountant shall resign or be removed as the gaming licensee's principal accountant or auditor, the gaming licensee shall submit a written report to the commission within 20 days of such resignation or removal, signed by its Chief Financial Officer and Chair of its Audit Committee,



outlining the cause or nature of the resignation or removal, stating whether the resignation or removal was related to material differences between the parties as to financial statement presentation issues, disclosures, or the adequacy of the gaming licensee's system of internal accounting control and, if so, a complete and detailed description of the differences for consideration by the commission. The gaming licensee shall submit as an exhibit to this report a letter from the former independent certified public accountant stating whether he or she agrees with the statements made by the gaming licensee in the report submitted to the commission.

In cases where a gaming licensee's parent or holding company is publicly traded, the gaming licensee shall file with the commission copies of such information and documents as are required to be filed with the United States Securities and Exchange Commission and/or the Public Company Accounting Oversight Board upon the resignation or removal of the publicly traded holding company's independent certified public accountant.

- (6) To the extent possible, any adjustments resulting from the annual audit required in accordance with 205 CMR 139.07 shall be recorded in the accounting records of the year to which the adjustment relates. In the event the adjustments were not reflected in the gaming licensee's quarterly report for the fourth quarter and the commission concludes the adjustments are significant, a revised quarterly report for the fourth quarter may be required from the gaming licensee. The revised filing shall be due within 30 calendar days after notification to the gaming licensee, unless an extension is granted by the commission.

#### 139.08: Audit of gaming licensee operations by commission

In accordance with M.G.L. c.23K, §65 the commission shall audit on an annual basis, and at other times the commission, or the IEB, determines necessary the accounts, programs, activities, and functions of a gaming licensee and/or any aspect of the gaming establishment and compliance with any provision of the gaming licensee's system of internal controls approved in accordance with 205 CMR 138.02. To conduct the audit, authorized officers and employees of the commission shall be given access by the gaming licensee to such accounts at reasonable times and may require the production of books, documents, vouchers and other records relating to any matter within the scope of the audit and as otherwise provided in accordance with 205 CMR 142: *Regulatory Monitoring and Inspections*; provided however, that a gaming licensee's tax returns will not be audited by the commission. All audits shall be conducted in accordance with generally accepted auditing standards established by the American Institute of Certified Public Accountants and the standards established by the Public Company Accounting Oversight Board. In any audit report of the accounts, funds, programs, activities and functions of a gaming licensee issued by the commission containing adverse or critical audit results, the commission may require a response, in writing, to the audit results. Such a response shall be forwarded to the commission within 15 days of notification by the commission. Where possible, efforts will be made not to audit areas that were the subject of, and satisfactorily addressed by, the annual audit required in accordance with 205 CMR 139.07.

Prior to submitting the requisite report required in accordance with M.G.L. c.23K, §65 to the clerks of the house of representatives and the senate, the gaming licensee shall be offered an opportunity to review the commission's report and make any requests allowed in accordance with 205 CMR 139.02. The commission may modify the information contained in the report to address the concern, but shall not adjust the findings of the audit.

139.09: Capital expenditure plan

- 1) For purposes of 205 CMR 139.09, net gaming revenue means gross gaming revenue as calculated in accordance with 205 CMR 140.02, minus taxes remitted to the commonwealth in accordance with 205 CMR 140.03.
- 2) Pursuant to M.G.L. c.23K, § 21(a) (4), A gaming licensee shall annually make, or cause to be made, capital expenditures to its gaming establishment in a minimum aggregate amount equal to 3.5 per cent of the net annual gaming revenues derived from the gaming establishment; provided, however, that a gaming licensee may make capital expenditures in an amount less than 3.5 per cent per year as part of a multi-year capital expenditure plan approved by the commission. If the gaming licensee intends to make capital expenditures as part of a multi-year capital plan, the plan shall be submitted to the commission for approval at least 3 months prior to the end of the first fiscal year included in the multi-year plan. A multi-year capital plan must, at a minimum, provide for the establishment of, and annual contribution to, a capital reserve account. Over the term of the plan, the total expenditures shall equal or exceed 3.5 per cent of the net annual gaming revenues derived from the gaming establishment during the covered term of years unless good cause is demonstrated to the contrary by licensee

REGULATORY AUTHORITY

205 CMR 139: M.G.L. c. 23K, §§4(28), 4(37), 21(a)(4), 5

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July 20, 2015

**VIA EMAIL**

Massachusetts Gaming Commission  
84 State Street  
Boston, MA 02109

**RE: Blue Tarp reDevelopment Supplemental Comments on 205 CMR 139.00**

To Whom It May Concern:

In response to the Massachusetts Gaming Commission's (the "Commission") revised draft of 205 CMR 139.00, *Continuing Disclosure and Reporting Obligations of Gaming Licensees*, Blue Tarp reDevelopment LLC ("MGM Springfield"), submits the following supplemental comments on the revised draft regulation to the Commission.

At the outset, MGM Springfield thanks Commission staff for its work on the revised draft of 205 CMR 139.00. In particular, the revised regulation's confidentiality provision and process provides appropriate protection for commercially sensitive records and other proprietary information to ensure the efficient exchange of information between the Commission and licensees to ensure continuous compliance with Chapter 23K. Likewise, the revised regulation's reliance on statutory requirements as the basis for report filing while requiring other material records be maintained by the licensee for inspection and production if necessary greatly reduces potential regulatory burden and the automatic production of commercially sensitive materials regardless of need. Finally, MGM Springfield also recognizes the Commission's efforts to ensure coordination of multiple audits required under the Gaming Act and Commission's regulations to ensure no duplication of efforts.

Notwithstanding these important and meaningful changes, there are some additional amendments set forth below and included in the attached redline that MGM Springfield requests that the Commission make to clarify certain sections and better align the proposed regulation with records maintained by licensees and their holding companies.

**Comments on 205 CMR 139.00: Continuing Disclosure and Reporting Obligations of Gaming Licensees**

***205 CMR 139.02***

This new section creates a process for seeking a nondisclosure agreement (NDA) under the G.L. c. 23K, § 21(a)7 for "material or information that the gaming licensee considers a trade secret or believes would be

detrimental to the gaming licensee if it were made public". The regulation requires that such an NDA be filed "prior to" the submission of such records potentially foreclosing the flexibility to execute an omnibus, standing NDA between the Commission and each gaming licensee. The NDA can be drafted to include the specific requirement for submitting the records under its provision including how the records should be transmitted, marked for confidentiality purposes and maintained by the Commission. Rather than being tied to specific requirements in a regulation, the suggested edit provides the MGC and the gaming licensees with regulatory flexibility to amend/modify the NDA as necessary and avoid having to file multiple copies of the same agreement.

***205 CMR 139.04(10)***

This section requires a licensee to provide the Commission with records pertaining to defaults including a "potential default". Records or information pertaining to a "potential default" will be difficult to identify and track across multiple entities including the gaming licensee, its holding company and affiliates which may involve a significant number of financial instruments with different provisions, notices and remedies in connection with events of default. Indeed, these were some of the grounds discussed with Commission staff in eliminating a similar requirement as a condition of MGM Springfield's Gaming License as approved by the Commission. *See Decision to Award License to Blue Tarp reDevelopment LLC, Attachment A, section 20(d)*. Moreover, the license condition only applies to the Blue Tarp as the licensee, and MGM Resorts International. *See Attachment A, section 20(r)*. The proposed revision makes the revised regulation consistent with Blue Tarp's license condition by striking "potential default" and "affiliate" from this section.

***205 CMR 139.05***

This section requires the licensee to maintain certain records and reports for inspection by the Commission. The introductory paragraph of this section should clarify that it applies to the licensee or parent or holding company, intermediary company, qualifying subsidiary and entity qualifier. The suggested revision recognizes that the gaming licensee may not have access to sensitive documents maintained by its parent or holding company, intermediary company, qualifying subsidiary or entity qualifier. The suggested revision is in no manner intended to limit the Commission's access to such documents but rather clarify its application to a parent or holding company, intermediary company, qualifying subsidiary and entity qualifier.

***205 CMR 139.05(1)(d)***

This section requires maintaining minutes of all meetings of shareholders, directors or members. The suggested revision is to correct a redundancy with Section 139.05(10) which requires the licensee to maintain records related to meetings of directors or members.

***205 CMR 139.05(1)(e)***

This section requires that a licensee or parent or holding company, intermediary company, qualifying subsidiary and entity qualifier thereof maintain detailed records regarding all record and beneficial owners of any class of *non-publicly* traded securities. The suggested revision adds a new provision that recognizes the differences in the information available for non-publicly traded securities as compared to publicly traded securities (*See Section 139.05(1)(f) below*). In addition, the reference to "equity securities" in this section recognizes that an owner entity could be other than a corporation.

***205 CMR 139.05(1)(f)***

This section requires the licensee or parent or holding company, intermediary company, qualifying subsidiary and entity qualifier thereof to maintain detailed records regarding all record and beneficial owners holders of *publicly* traded securities. This section is also revised to cover both public equity and debt securities. The reference to “equity securities” also recognizes that an owner entity could be other than a corporation. Moreover, the proposed 2% threshold should be changed to 5%. Only 5% or greater equity holders must disclose their identity under federal securities law. Records regarding ownership under the 5% threshold are not maintained in the normal course of business and are not readily available.

***205 CMR 139.05(3)***

This new section requires that a licensee or parent or holding company, intermediary company, qualifying subsidiary and entity qualifier thereof maintain certain schedules filed with the Security and Exchange Commission (SEC) including Schedules 13D and 13G. These schedules are required to be filed with the SEC when a person or group of persons acquires beneficial ownership of more than 5% of a voting class of a company’s equity securities. To the extent these schedules are served upon the gaming licensee or parent or holding company, intermediary company, qualifying subsidiary and entity qualifier thereof, they will be maintained under this provision.

***205 CMR 139.05(11)***

This section requires a gaming licensee to maintain a compliance plan. Rather than creating a separate requirement or definition for compliance plans, this section should reference the compliance plan as approved as part of a licensee’s internal control plan as required by 205 CMR 138.04(2)(g).

***205 CMR 139.05(12)***

This section requires a licensee or parent or holding company, intermediary company, qualifying subsidiary and entity qualifier thereof to maintain copies of the minutes of all board of directors or equivalent governing authority meetings and committee meetings including the audit and compliance committee meeting minutes. This section should be amended to clarify that the production of draft minutes in cases where final minutes are not yet approved does not create a separate obligation to maintain all copies of draft minutes.

***205 CMR 139.07(2) and (5)***

Section 139.07 sets forth an annual audit requirement of the financial statements relevant to the operation of the Massachusetts gaming establishment. Subsection 2 of this section requires the rotating of the lead audit partner every five years and, in subsection 5, requires a written report to the commission within 20 days of the resignation or removal of the Company's independent auditor. Both these sections are revised to differentiate between privately held companies and publically traded companies which are required to meet these obligations under federal securities law. The proposed revisions to these sections will prevent any potential for conflicts with federal law while maintaining the auditor independence and reporting requirements.



Thank you for your attention to this matter.

Sincerely,

**BLUE TARP REDEVELOPMENT LLC**

**by its Attorneys,**

**BROWN RUDNICK LLP**

A handwritten signature in blue ink, appearing to read 'Jed M. Nosal'.

Jed M. Nosal

**FOX ROTHSCHILD, LLP**

Patrick Madamba

cc: Todd Grossman, Deputy General Counsel  
John Ziemba, Ombudsman

205 CMR: MASSACHUSETTS GAMING COMMISSION  
205 CMR 139.00: CONTINUING DISCLOSURE AND REPORTING OBLIGATIONS OF  
GAMING LICENSEES

Section

- 139.01: Access to premises and production of records
- 139.02: Non-disclosure agreements
- 139.03: Fiscal year
- 139.04: Reports and information to be filed with the commission
- 139.05: Reports and information to be compiled and maintained by the gaming licensee
- 139.06: Quarterly report
- 139.07: Annual audit and other reports
- 139.08: Audit of gaming licensee operations by commission
- 139.09: Capital expenditure plan

139.01: Access to premises and production of records

The commission shall have access to, and may inspect the premises of the gaming establishment and/or request the production of records of the gaming licensee in accordance with 205 CMR 142.00: *Regulatory Monitoring and Inspections*.

139.02: Non-disclosure agreements

All documents submitted by a gaming licensee or obtained by the commission in accordance with 205 CMR 139.00 shall be deemed to have been submitted pursuant to a gaming related investigation to ensure compliance with M.G.L. c. 23K and 205 CMR, adherence to the principles articulated in M.G.L. c.23K, §1, and/or to ensure the ongoing suitability of gaming licensees in Massachusetts. Accordingly, pursuant to M.G.L. c.23K, §21(a)(7) any information or reports, or parts thereof, that ~~are~~ **is** required to be filed or otherwise submitted to or obtained by the commission, the IEB, or their respective agents, in accordance with 205 CMR 139.00 that contain material or information that the gaming licensee considers a trade secret or believes would be detrimental to the gaming licensee if it were made public may be identified as confidential by the gaming licensee. ~~Prior to filing or submitting such material or information~~ **Additionally**, pursuant to M.G.L. c.23K or 205 CMR 139.00, ~~at~~ **the** gaming licensee may request that the commission enter into a written nondisclosure agreement under the terms of which the commission agrees not to release ~~the subject~~ **specified** material or information publicly, in response to a request for public records or otherwise, and will assert the statutory exemption, M.G.L. c.4, §7(26)(a), and/or any other applicable exemptions, and withhold the applicable materials in response to any request for such record or information. A request for a non-disclosure agreement shall be on a form provided by the commission. Upon review of the gaming licensee's request, the commission may execute such an agreement in its discretion. In lieu of withholding a record in its entirety, the gaming licensee and the commission may agree that that the material or information be publicly released in a redacted form, an aggregated fashion, or in other agreed upon manner. Nothing contained in 205 CMR 139.02, nor in an executed non-disclosure agreement, shall be construed so as to prevent the commission from

making use of any information or material as part of an investigation, disciplinary matter, or otherwise as deemed necessary by the commission.

139.03: Fiscal year

The gaming licensee shall establish a fiscal year for accounting purposes and shall advise the commission of such.

139.04: Reports and information to be filed with the commission

The following reports and information shall be filed with the commission, or its designee, in the manner and time provided:

- (1) Pursuant to M.G.L. c. 23K, § 21(a)(12), a detailed annual, and at other times as directed by the commission, statistical report on the number, job titles, benefits, race, gender, veteran status, and salaries of employees hired and retained in employment at the gaming establishment.
- (2) Pursuant to M.G.L. c. 23K, § 21(a)(23), on a quarterly basis, a detailed statistical report, on the number, gender, race, and veteran status and/or military history of individuals hired to perform labor as part of the construction of the gaming establishment.
- (3) Pursuant to M.G.L. c. 23K, § 21(a)(24), a detailed annual, and at other times as directed by the commission, statistical report on the total dollar amounts contracted with and actually paid to minority business enterprises, women business enterprises and veteran business enterprises in:
  - (a) Design contracts;
  - (b) Construction contracts; and
  - (c) Contracts for every good and service procured by the gaming establishment.

The annual statistical report shall also identify the amounts so contracted as a percentage of the total dollar amounts contracted with and actually paid to all firms.

- (4) Pursuant to M.G.L. c. 23K, § 23(a), on an annual basis, and at other times as directed by the commission, a report explicitly stating the gaming licensee's progress on meeting each of the stated goals and stipulations put forth in its RFA-2 application, including compliance with any executed impacted live entertainment venue agreements.
- (5) Reports prescribed in accordance with 205 CMR 138.05(2) relative to registered and licensed employees;
- (6) Daily, monthly, and annual gross gaming revenue remittance and reconciliation reports required in accordance with 205 CMR 140.00: *Gross Gaming Revenue Tax Remittance and Reporting*. Monthly gross gaming revenue reports shall include statistics relative to the drop/handle, win or loss, and win or loss percentage relative to slot machines played in the



gaming establishment for the month. The commission shall make the monthly slot machine payback statistics publicly available on its official website.

- (7) Promptly upon discovery, the gaming licensee shall notify the commission's on-site gaming agent and/or member of the Gaming Enforcement Unit assigned to the gaming establishment of any violation, or suspected violation, of M.G.L. c. 23K, 205 CMR, and/or any gaming related law and file any requested written report.
- (8) By the 10<sup>th</sup> day of each month, an underage person report with the IEB containing the information required in accordance with 205 CMR 150.05: *Reporting Requirements Related to Minors and Underage Persons*.
- (9) A gaming licensee shall promptly notify the commission's on-site gaming agent and/or member of the Gaming Enforcement Unit assigned to the gaming establishment, if an individual on the voluntary self-exclusion list established in accordance with 205 CMR 133.00: *Voluntary Self-Exclusion* is found in the gaming area of a gaming establishment or any area in which pari-mutuel or simulcasting wagers are placed.
- (10) Any declared event of default, ~~or potential event of default~~, related to any debt obligation maintained by the gaming licensee, ~~affiliate~~, or parent or holding company thereof shall be immediately reported to the commission, in writing, along with any plans to address or cure such default.
- (11) Quarterly reports of the gaming licensee in accordance with 205 CMR 139.06.
- (12) If the gaming licensee elects to establish a capital expenditure plan in accordance with 205 CMR 139.09 in lieu of making annual improvements to its gaming establishment, such plan shall be submitted to the commission for approval and updates included in the gaming licensee's quarterly report in accordance with 205 CMR 139.06.

#### 139.05: Reports and information to be compiled and maintained by the gaming licensee

The following reports and information shall be compiled and maintained by the gaming licensee or the gaming licensee's parent or holding company, intermediary company, qualifying subsidiary or entity qualifier thereof, as applicable, in the manner provided as follows or as required by the governing body responsible for the oversight of the subject information, and shall be made available and provided upon request by the commission, or its designee:

- (1) Up to date records regarding the business structure, capital structure, and controlling interest of the gaming licensee, where applicable, and the gaming licensee's parent or holding company, intermediary company, qualifying subsidiary or entity qualifier thereof including, at a minimum:
  - (a) Certified copies of incorporation and formation documents and any amendments thereto;
  - (b) By-laws, shareholders agreements, governing and/or operating agreements or documents, partnership agreement, intercompany transactions, joint venture agreements, merger and acquisition agreements, and other relevant corporate documents.;
  - (c) Current listing of officers, directors, members, partners;
  - ~~(d)~~ Minutes of all meetings of shareholders, ~~directors or members~~;
  - ~~(d)~~(e) Detailed records regarding all record and beneficial owners of any class of non-publicly traded securities, including both equity and debt securities, issued by the

gaming licensee, its parent or holding company, intermediary company, qualifying subsidiary or entity qualifier thereof, including the names and addresses of record and beneficial owners of such equity or debt securities, date(s) acquired and the number of equity securities held or face amount of debt securities held, as applicable;

~~(e)~~(f) Detailed records regarding all record and beneficial owners ~~holders~~ of 5% or more of any class of publicly traded securities, including both equity ~~stocks~~ and debt securities ~~bonds~~, issued by the gaming licensee, its any parent or holding company, intermediary company, qualifying subsidiary or entity qualifier thereof, or by any other affiliated entity which is required to qualify in connection with the gaming licensee's gaming license, including the names and addresses of record and beneficial owners of such any shares of equity stock or debt securities held in street name or other name, ~~where any beneficial owner has a beneficial interest in 2% or more of the outstanding shares of any class of stock, as well as the~~ date(s) acquired and the number of equity securities ~~shares of stock~~ held or face amount of debt securities held, as applicable;

~~(f)~~(g) Detailed records regarding distributions to equity holders holding 5% or more of the entity;

~~(g)~~(h) Detailed records regarding all remuneration paid to officers, directors, partners and members;

~~(h)~~(i) (for the gaming licensee only) Detailed records regarding all capital contributions;

~~(i)~~(j) (for the gaming licensee only) Detailed records regarding any equity transfers;

~~(j)~~(k) Essential details of any debt obligations including loans, covenants, borrowings, installment contracts, guarantees, leases, or any other debt; and

~~(k)~~(l) Any other records as the commission deems appropriate.

(2) Copies of any securities filings submitted to federal, state, or other domestic or foreign securities regulatory authorities, regarding any of the securities, either in existence or proposed, including, but not limited to, United States Securities and Exchange Commission forms S-1, 8-K, 10-Q and 10-K, proxy or information statements and all registration statements filed by the gaming licensee, or parent or holding company, intermediary company, qualifying subsidiary and entity qualifier thereof.

~~(2)~~(3) Copies of any United States Securities and Exchange Commission Schedules 13D or 13G served upon the gaming licensee, or parent or holding company, intermediary company, qualifying subsidiary and entity qualifier thereof.

~~(3)~~(4) Copies of the federal and state tax returns and any related forms filed by the gaming licensee, and its parent or holding company, intermediary company, qualifying subsidiary or entity qualifier thereof.

~~(4)~~(5) The system of financial accounting, in accordance with generally accepted accounting principles, to be utilized by the gaming licensee designed to ensure the accurate recording and reporting its assets, liabilities, equity, revenue and expenses. The gaming licensee's system of financial accounting shall provide a level of detail so as to allow it to accurately compute gross gaming revenue in accordance with 205 CMR 140.02 and to report the gaming licensee's drop, win, and hold percentage for each form of gaming activity, the value of complimentary goods or services and promotional gaming credits issued during the accounting period, and any other information necessary to allow the commission to understand the gaming licensee's results of operations. The gaming licensee shall maintain

detailed information and documentation to support all amounts reported to the commission as being the gaming licensee's assets, liabilities, equity, revenue and expenses.

(5)(6) Data derived from the gaming licensee's player card/rewards card/loyalty program, cashless wagering system, player tracking software, or other similar information systems including:

- (a) Pursuant to M.G.L. c.23K, §§ 21(a)(15) and 29, the amount of money spent and lost on gaming (excluding the value of promotional gaming credits played, but including any amounts that were subject to discretionary discounting for marketing or other similar purposes) by patrons at the gaming establishment who have been issued a player card or rewards card or who participated in a cashless wagering system, aggregated by, at a minimum, the patron's age, gender and home zip code provided by the patron and compiled on an annual basis or as otherwise directed by the commission.
- (b) Pursuant to St. 2011, c. 194, §97, information, compiled by year, on player characteristics for patrons of the gaming establishment including, but not limited to, gender, age and region of residence, player behavior including, but not limited to, frequency of play, length of play, speed of play, denomination of play, amounts wagered at the gaming establishment and, if applicable, number of lines or hands played and characteristics of games played including, but not limited to, reel configuration, return-to-player or RTP, volatility index and denomination.

(6)(7) Pursuant to M.G.L. c.23K, §28(b), a quarterly report, covering all complimentary services offered or engaged in by the gaming licensee during the immediately preceding quarter. The reports shall identify regulated complimentary services or items including, but not limited to, food and beverage, hotel and travel accommodations, and promotional gaming credits. The reports shall be aggregated by, at a minimum, the costs of the complimentary services or items, and the number of people who received each service or item for the quarter. The report shall also document any services or items valued in excess of \$2,000 that were provided to patrons, including detailed reasons as to why they were provided. Valuation shall be performed in accordance with M.G.L. c.23K, §28(c).

(7)(8) The gaming licensee's Disbursement Report relative to vendors in accordance with 205 CMR 138.06(2);

(8)(9) Counter check information maintained by the gaming licensee in accordance with 205 CMR 138.43(2)(l)-(n).

(9)(10) An annual business plan for the gaming licensee, which will include financial projections in a format as prescribed by the commission no later than 30 days prior to the commencement of the fiscal year.

(10)(11) A compliance plan, and any amendments thereto, as required to be maintained pursuant to 205 CMR 138.04(2)(g) ~~for the gaming licensee and its corporate parent or holding company outlining the practices and protocols implemented, or to be implemented, designed to ensure compliance with all applicable federal or state laws.~~

(11)(12) Copies of the minutes of all board of directors or equivalent governing authority meetings and committee meetings including the audit and compliance committee meeting minutes pursuant to 205 CMR 138.04(2)(g) and (h), for the gaming licensee or parent or holding company thereof. The commission may request the then current draft of any such minutes if final minutes are not available as of the date of any such request ~~n draft form~~

followed by final minutes when formally approved. Where applicable, the commission may request that it be provided access to only those portions of the minutes that relate to the gaming licensee and not to the parent or holding company as a whole or to other properties owned or operated by the parent or holding company.

#### 139.06: Quarterly reports

- (1) On a quarterly basis, the gaming licensee shall create a report that provides a continuing view of the gaming licensee's financial position including key performance measures, narrative commentary on operating results, and where applicable, the capital reserve account contributions made in accordance with the plan submitted pursuant to 205 CMR 139.09. The quarterly report shall be attested to by any two of the following: the Chief Executive Officer, Chief Gaming Executive, Chief Financial Officer, Treasurer, Financial Director, Controller, or their functional equivalent.
- (2) The quarterly report required in accordance with 205 CMR 139.06(1) shall be accompanied by a statement attested to by the gaming licensee's Chief Financial Officer, or their functional equivalent, that the gaming licensee satisfies the following:
  - (a) It has maintained for the previous quarter, and has the ability to maintain for the upcoming quarter, a gaming bankroll or equivalent provisions adequate to pay winning wagers to gaming patrons when due.
  - (b) It has paid in the previous quarter and has the ability to pay when due all local, state and federal taxes, including the tax on gross gaming revenues imposed by M.G.L. c.23K, §55 and any fees imposed under M.G.L. c.23K or 205 CMR.
  - (c) It has the ability to make annual capital expenditures to its gaming establishment in a minimum aggregate amount equal to 3.5 per cent of the net gaming revenues derived from the establishment or in accordance with a multi-year capital expenditure plan approved by the commission pursuant to 205 CMR 139.09.
  - (d) It has the ability to pay, exchange, refinance or extend debts, including long-term and short-term principal and interest and capital lease obligations, which will mature or otherwise come due and payable during the license term, or to otherwise manage such debts and any default with respect to such debts.

#### 139.07: Annual audit and other reports

- (1) On an annual basis a gaming licensee shall, at its own expense, cause an audit to be prepared by an independent certified public accountant of its financial statements relevant to the operation of its Massachusetts gaming establishment. The gaming licensee may satisfy this requirement by submission of the audit of the consolidated financial statement, including applicable notes, of the gaming licensee's parent or holding company provided that such audit is accompanied by a supplemental information, appendix, or other financial information section specific to the gaming licensee which includes an audited financial statement containing, at a minimum, a balance sheet, income statement, and a statement of cash flows for the gaming licensee.

In either event, the independent certified public accountant shall attest to the financial condition of the gaming licensee, disclose whether the accounts, records and control procedures examined are maintained by the gaming licensee as required by M.G.L. c.23K and 205 CMR, and opine as to whether there are material weaknesses in the gaming licensee's system of internal controls.

In the event that the independent certified public accountant makes recommendations to improve the system of internal controls, or to increase the gaming licensee's level of compliance, the gaming licensee's Chief Financial Officer shall respond, in writing, to the recommendations of the independent certified public accountant and provide the commission with a copy of its response.

- (2) To ensure the independence of the annual audit, at least every five years a gaming licensee, -whose parent or holding company is not publicly traded, shall rotate the lead (or coordinating) audit partner having primary responsibility for the audit, and the audit partner responsible for reviewing the audit. For a gaming licensee, whose parent or holding company is publicly traded, lead (or coordinating) audit partner rotation shall comply with the requirements of federal law, including the requirements of the United States Securities and Exchange Commission.
- (3) In the event the annual audited financial statements differ from financial statements maintained by the gaming licensee throughout the year, the gaming licensee shall provide a summary of these differences as part of the annual audit.
- (4) The annual audit and associated statements required in accordance with 205 CMR 139.07(1) shall be filed with the commission within 3 months following the end of the quarter following the end of the gaming licensee's fiscal year.
- (5) In cases where a gaming licensee's parent or holding company is not publicly traded, ~~i~~n the event the gaming licensee's independent certified public accountant shall resign or be removed as the gaming licensee's principal accountant or auditor, the gaming licensee shall submit a written report to the commission within 20 days of such resignation or removal, signed by its Chief Financial Officer and Chair of its Audit Committee, outlining the cause or nature of the resignation or removal, stating whether the resignation or removal was related to material differences between the parties as to financial statement presentation issues, disclosures, or the adequacy of the gaming licensee's system of internal accounting control and, if so, a complete and detailed description of the differences for consideration by the commission. The gaming licensee shall submit as an exhibit to this report a letter from the former independent certified public accountant stating whether he or she agrees with the statements made by the gaming licensee in the report submitted to the commission. In cases where a gaming licensee's parent or holding company is publicly traded, the gaming licensee shall file with the commission copies of such information and documents as are required to be filed with the United States Securities and Exchange Commission upon the resignation or removal of the publicly traded parent company's independent certified public accountant.

- (6) To the extent possible, any adjustments resulting from the annual audit required in accordance with 205 CMR 139.07 shall be recorded in the accounting records of the year to which the adjustment relates. In the event the adjustments were not reflected in the gaming licensee's quarterly report for the fourth quarter and the commission concludes the adjustments are significant, a revised quarterly report for the fourth quarter may be required from the gaming licensee. The revised filing shall be due within 30 calendar days after notification to the gaming licensee, unless an extension is granted by the commission.

139.08: Audit of gaming licensee operations by commission

In accordance with M.G.L. c.23K, §65 the commission shall audit on an annual basis, and at other times the commission, or the IEB, determines necessary the accounts, programs, activities, and functions of a gaming licensee and/or any aspect of the gaming establishment and compliance with any provision of the gaming licensee's system of internal controls approved in accordance with 205 CMR 138.02. To conduct the audit, authorized officers and employees of the commission shall be given access by the gaming licensee to such accounts at reasonable times and may require the production of books, documents, vouchers and other records relating to any matter within the scope of the audit and as otherwise provided in accordance with 205 CMR 142: *Regulatory Monitoring and Inspections*; provided however, that a gaming licensee's tax returns will not be audited by the commission. All audits shall be conducted in accordance with generally accepted auditing standards established by the American Institute of Certified Public Accountants and the standards established by the Public Company Accounting Oversight Board. In any audit report of the accounts, funds, programs, activities and functions of a gaming licensee issued by the commission containing adverse or critical audit results, the commission may require a response, in writing, to the audit results. Such a response shall be forwarded to the commission within 15 days of notification by the commission. Where possible, efforts will be made not to audit areas that were the subject of, and satisfactorily addressed in, the annual audit required in accordance with 205 CMR 139.07.

Prior to submitting the requisite report required in accordance with M.G.L. c.23K, §65 to the clerks of the house of representatives and the senate, the gaming licensee shall be offered an opportunity to review the commission's report and make any requests allowed in accordance with 205 CMR 139.02. The commission may modify the information contained in the report to address the concern, but shall not adjust the findings of the audit.

139.09: Capital expenditure plan

A gaming licensee shall annually make, or cause to be made, capital expenditures to its gaming establishment in a minimum aggregate amount equal to 3.5 per cent of the net annual gaming revenues derived from the gaming establishment; provided, however, that a gaming licensee may make capital expenditures in an amount less than 3.5 per cent per year as part of a multi-year capital expenditure plan approved by the commission. For purposes of 205 CMR 139.09, net gaming revenue means gross gaming revenue as calculated in accordance with 205 CMR 140.02 minus taxes remitted to the commonwealth in accordance with 205 CMR 140.03. If the gaming

licensee intends to make capital expenditures as part of a multi-year capital plan, the plan shall be submitted to the commission for approval at least 3 months prior to the end of the first fiscal year included in the multi-year plan. A multi-year capital plan must, at a minimum, provide for the establishment of, and annual contribution to, a capital reserve account. Over the term of the plan, the total expenditures shall equal or exceed 3.5 per cent of the net annual gaming revenues derived from the gaming establishment during the covered term of years unless good cause is shown to the contrary.

#### REGULATORY AUTHORITY

205 CMR 139: M.G.L. c. 23K, §§4(28), 4(37), 21(a)(4), 5



**PENN NATIONAL**  
GAMING, INC.

June 5, 2015

Mr. Rick Day  
Executive Director  
Massachusetts Gaming Commission  
84 State Street, 10th Floor  
Boston, MA 02109

**RE: Comments on Draft Rules 139- Continuing Disclosure and Reporting Obligations of Gaming Licensees**

Dear Executive Director Day:

We have reviewed the Massachusetts Gaming Commission's latest draft regulations concerning *Continuing Disclosure and Reporting Obligations of Gaming Licensees* (205 CMR 139). Based on this review, our primary concern is the confidentiality of the records required to be produced. Much of the information required to be provided will contain very sensitive information not typically disclosed by publicly traded companies. If such information were to be disclosed, we believe it would offer valuable intelligence to our competitors, contain proprietary business information/methods or involve confidential information relating to our customer base for which such customers have a reasonable expectation of privacy.

**General:** The regulation specifically uses the terms "*gaming licensee*" and "*gaming licensee and its holding companies*" in different places and context. We are interpreting "*gaming licensee*" to be referring to Plainville Gaming and Redevelopment, LLC d/b/a Plainridge Park Casino (hereinafter PPC) whereas the term "*holding companies*" would be referring to PPC's parent entities, including Penn National Gaming, Inc. ("Penn").

**139.01: Records regarding company ownership**

In general this regulation only requires that a licensee maintain corporate documents and records which in most cases it does. The only concerns we have are:

- (3) Current list of equity owners. We do not typically maintain an updated list of all equity owners in Penn itself. Obtaining such a list is expensive and would be out-of-date as soon as we receive it. We do compile a quarterly list of all owners of Penn stock of 5% and over because we consider that level of ownership as material and such owners are required to file a public report with the SEC when they reach that level. We would suggest that the language be changed to only require this information for ownership levels of 5% or more.



### **139.02 Accounting system**

(2) Requires licensee's to submit a full chart of accounts for approval. The confidentiality of any chart of accounts submitted is our main concern as this is proprietary business information and its public release may provide nefarious individuals valuable information useful in any attempt to initiate or perpetuate an accounting fraud.

In general, we maintain that detailed information about a licensee's accounting system constitutes a proprietary business record which would be useful for third parties to interfere with or undermine a licensee's accounting controls.

### **139.03: This regulation requires annual filings with the Commission of various information.**

Again, in most cases, the information can be provided but our primary concern is confidentiality as more fully discussed below:

- 1a: Benefits and salaries: We can provide the requested information. We would expect that detailed or individualized information on benefits and salaries would remain confidential as this information, if made public, would provide valuable information for competing casino companies (and other businesses) useful for recruitment of our employees by those outside firms, as well as create significant issues among our employees. We would not object to the public release of bulk information of the total value of annual wages and benefits paid by the property provided this information is not broken out by department, position or individual employee.
  
- 1b: Requires an annual report on amounts spent with M/W/V business enterprises. We do not object to this requirement. We maintain however, that the public release of the details of such information provided (which businesses were paid what, and for what product or service) are proprietary business records useful to competitors and should not be publicly released. We do not object to release of aggregated annual spending with M/W/VBEs (i.e. one figure for PPC's MBE spending, another for WBE, etc.) but would object to the release of the details of such spending on confidentiality grounds.
  
- 1d: Requires aggregate demographic information with respect to the gaming licensee's customers. Customer data is among the most sensitive and important data we maintain. We have two concerns here:
  - 1. The regulation uses the word "aggregate". We do not object to provide aggregate patron demographic information to the Commission provided the information is not identifiable to individual customers.
  - 2. We would not object to a public release of aggregate data that aggregates demographic information from all operating casino customers on a statewide basis. However, release of this information on a property basis could provide valuable competitive information to competing casino companies that may allow them to develop marketing strategies that would hurt the licensee's competitive position.

We also note that the information provided would only include rated players and thus would not give a wholly accurate portrayal of the demographics of all Massachusetts players.

- 1f: Requires production of a quarterly report of all comps. We have several concerns here:
  - 1. This is highly sensitive marketing and customer information that would be very useful to competing casino operators to undercut the Licensee's own marketing

programs. As such, any data provided should be considered a proprietary business record and should not be publicly released either in aggregate or by individual property.

2. Our interpretation of the first part of this section (comps of under \$2,000) is that we would only need to provide aggregate comp information (i.e. total value of comps, total number of people who received comps) and not data on individual comps or on the individuals who received those comps. Information more detailed than that (e.g. who received each comp), is proprietary company information that, if disclosed, would be useful to competitors to undermine the licensee's marketing activity. Additionally customers receiving comps have a legitimate expectation of privacy that their comp activity will remain private.
  3. The knowledge by patrons that any comps they receive of over \$2,000 must be reported to the MGC may have a chilling effect on the willingness of such customers to play in our casino. More importantly, any such information provided must be protected from public release as patrons have an expectation of privacy in such matters. Additionally, this information would provide valuable competitive information to competing casino companies that may allow them to develop marketing strategies that would hurt the licensee's competitive position.
- 1g: We do not object to this provision in general but do believe reporting on amounts played and lost by zip code, if released on an individual property basis, will provide useful competitive information to competing casino companies that may allow them to develop marketing strategies that would hurt the licensee's competitive position. Such release may allow competitors to target their marketing at those zip codes that provide the licensee's with their greatest revenue.
- 1i: Requires the annual production of a disbursement report. We have no objection to the requirement to provide this report; however, we believe requiring such a report twice a month (per 138.06 (2)) is excessive and should be required to only be produced monthly. The reports will provide a detailed picture as to where the licensee is spending money which is a proprietary business record that should be protected from public disclosure.
- 1j: Requires the annual production of detailed counter check information. The information required to be provided is highly sensitive as it will contain detailed financial information on our patron's credit activity including bank account information. Therefore it should be protected from public disclosures as people have an expectation that such sensitive financial information will be protected from public disclosure.
- 1k: Requires the production of "*customer tracking data collected or generated by loyalty programs, player tracking software, player card systems, online gambling transactions or any other information system*". This customer information is highly sensitive. We have two concerns here:
1. This is highly sensitive marketing and customer information that would be very useful to competing casino operators to undercut the Licensee's own marketing programs. As such, any data provided should be considered a proprietary business record and should not be publicly released either in aggregate or by individual properties.

2. The knowledge by patrons that all data collected through the player tracking system will be given to authorities in the Commonwealth (even if anonymized) may have a chilling effect on the willingness of such customers to play in our casino. More importantly, any such information provided must be protected from public release as patrons have an expectation of privacy in such matters.
- 1l: Requires the production of daily tax remittance information: The Licensee has no objection to providing this information. Daily tax remittance information should, however, be protected from public release because, through a simple calculation, it would allow competitors to determine property gaming revenue on a daily basis. If publicly released, this information would allow competing casino companies to determine the impact of individual property promotions and special events on the property's casino play. This information would then allow those competitor's to emulate those same promotions to the detriment of the casino's own profitability. We have no objection to releasing such information on a month or quarterly basis preferably aggregated with all other in-state casino remittances.
- 1m: This regulation references 205 CMR 140.04 which requires *monthly* and *annual* reports of gross gaming revenue and tax remittance but does not require *quarterly* reports, while Item M of 139.01 references *quarterly* and annual gross gaming revenue reports. It appears therefore, that there is a discrepancy between *annual* and *quarterly* reports. We have no objection to providing either monthly or quarterly reports of gross gaming revenue and tax remittances. From the regulation, it is unclear whether this report requires the data to be broken down by individual days with a monthly sum at the bottom or whether it just requires the data be presented as monthly totals. If individual daily information is required we reiterate the comments made in Item l above. As far as monthly or quarterly gross gaming revenue and tax remittance data, we have no objection to the public release of such information preferably aggregated with all other in-state casino remittances.

#### **139.04 Monthly and quarterly financial statements**

1. Requires each licensee to submit monthly internal financial statements. We do maintain unaudited monthly property financial statements and have no objection to this requirement. We note however, that Penn is a publicly traded company that does not publicly report individual property results in its financial statements. As such, we believe that property financial statements are proprietary business record and should be protected from public disclosure. Release of such information would be useful to competitors to the detriment of the licensee, may necessitate burdensome SEC disclosure statements and would be beyond what is normally disclosed by a multi-jurisdictional publicly traded company.
2. Requires each licensee to submit quarterly internal financial statements. Our concerns are the same as discussed in Item 1 above
3. We have no objection to providing annual budgeting documents, provided that these documents are protected from public disclosure. They will contain proprietary business plans and non-public inside information that if publicly released, could provide irreparable harm to the company. We believe the necessity to provide monthly budget updates is excessive as we believe that monthly budget details will be of little use to the Commonwealth and feel that the requirement should be eliminated or changed to require only quarterly updates.

### 139.05 Financial stability filings by a gaming licensee

1: Requires the filing of a quarterly statement that:

(a): States that the licensee has an adequate bankroll to pay winning wagers. We have no objection to this provision, however; the regulation goes on to set a rigid definition of a minimum bankroll, requiring it to be equal or greater than the bankroll in place the prior year. We do not see the need for the Commission to set a minimum bankroll. The minimum bankroll needed by a casino will vary over time based on market conditions, new technology and special events. Some examples:

- A new competitor entering the market will tend to reduce business levels so the casino's bankroll needs are lower.
- Holding a large promotion may require a casino to increase its bankroll
- New technology, (e.g. TITO tickets) will tend to reduce the amount of cash used in a casino so the bankroll can be lower.

For these reasons we believe the definition of the minimum bankroll is not necessary or practical and should be removed from the regulation.

(b): Attestation by licensee that it will have a positive EBITDA. We are confident our operations will have positive EBITDA but it is possible that this will not always be the case. There could be a major force majeure event (e.g. serious tornado damage or a fire) that could cause a disruption of casino operations that could lead to negative EBITDA. Such events cannot be predicted so the attestation would strictly be an opinion based on what is known at the time and would not be a guarantee. This comment also applies to **items (c), (d), and (e) in this section.**

2. Requires the submission of projected financial statements for the following year of operation. We have no objection to providing projected financial statements provided such documents are protected from public disclosure. They will contain proprietary business projections and non-public inside information that, if publicly released, could provide irreparable harm to the company. Release of such information would be useful to competitors to the detriment of the licensee, may necessitate burdensome SEC disclosure statements and would be beyond what is normally disclosed by a multi-jurisdictional publicly traded company.

3. Annual statement regarding compliance with 139.05(1)(a)-(e). We have no objection to providing this information. This information requires an "analysis" of this compliance. Such analysis is likely to contain proprietary non-public inside information that if publicly released, could provide irreparable harm to the company. We therefore believe any information provided should be protected from public disclosure.

4. We have no objection to providing the Commission Compliance Certificates related to the company's debt. We do maintain however, that these compliance certificates are likely to contain non-public proprietary business information that if released may necessitate burdensome SEC disclosure statements and would be beyond what is normally disclosed by a publicly traded company.

5. Requires licensees to file with the Commission *essential details of any loans, covenants, borrowings, installment contracts, guarantees, leases, capital contributions, or any other debt no*

*later than 10 days after the end of the month in which the transaction or event occurs.*

We suggest that the wording of this regulation is too broad. We believe what the Commission is looking for is details of large and significant financing transactions but the regulation also includes “*installment contracts*”, “*leases*” and “*any other debt*”. Casinos frequently enter into small lease or installment contracts that are not material project financing transactions. Examples of such transactions may include:

- a yearly lease for a slot machine,
- the purchase of communications equipment on installment (e.g. no interest for 12 equal monthly payments) that the supplier offers as an incentive to buy their equipment over their competitors
- A 5 year lease on a security van.

We would suggest an adjustment to the regulation to include a materiality provision such as: *whose annual value exceeds \$250,000*. Additionally, any information provided, should be protected from public disclosure as some of the information will be proprietary business records. The release of such records could be useful to competitors to the detriment of the licensee or the issuer, who may offer different terms to different customers and would not want that information to be known to its competitors.

6. Notice of default or potential default along with any plans to address or cure such default:  
We see no problem in complying with this requirement. We do however, assert that any such notice and cure plans should not be publicly disclosed (particularly any cure plans) beyond what is required by SEC rules and regulations. This information will likely contain commercially sensitive and proprietary business records that would allow competitors or financial speculators to undermine the licensee’s cure plans, expose the company to litigation risk and undermine its ability to raise capital.

#### **139.06: Annual Audit and other reports**

We have no objection to providing this information; however, we note that Penn does not report individual property results in its financial statements. Therefore, the PPC statements that will be provided should remain confidential. We believe that property financial statements are proprietary business record and should be protected from public disclosure. Release of such information would be useful to competitors to the detriment of the licensee, may necessitate burdensome SEC disclosure statements and would be beyond what is normally disclosed by a multi-jurisdictional publicly traded company.

#### **139.07 Tax Filings**

We have no objection to providing this information. While some tax information is included in Penn’s SEC filings, its tax returns are not public documents and should be protected from public release.

#### **139.08: Minutes of meetings of board and committees**

These documents are highly confidential. They contain non-public information on future business plans (acquisitions, divestments) and memorialize frank discussion from Board members and staff on major company matters that may include: sensitive financial information, personnel matters related to senior executives, compensation discussions, internal investigations and many other highly confidential matters. The production or release of such information would increase litigation risk,

may lead to SEC disclosure issues and would be useful to competitors and financial speculators to harm the business prospects of the company. The knowledge by Board members that such documents could be under public scrutiny would have a chilling effect on a company board member's ability to frankly discuss company matters in general. Due to the size of the gaming companies operating in Massachusetts, the vast majority of the discussions conducted by the Board would not be directly related to each company's Massachusetts operation but would concern matters of many other properties and business prospects.

We are so concerned about the confidentiality and potential harm that the release of these documents could do to the legitimate business interest of the company that we do not believe they should ever be in the physical possession of the MGC. We would welcome further discussion with Commission staff on the best way to protect the confidentiality of these critical documents while still providing any needed Board related information to the Commission's representatives should the need arise.

**139.12: Audit of gaming licensee operations by Commission**

We have no objection to this provision. We assert that any audit findings documented should not be subject to public disclosure as they will likely contain non-public business information on company procedures and business practices and could include personal information on customers and property staff.

**139.13: Capital expenditure plan**

The specific information on what the capital spending plan will include, or the actual amounts being "saved-up" for a future capital project, should be protected from public disclosure. Such plans would provide valuable information on the licensee's future business plans to the licensee's competitors so that those competitors could take action to counter those expansion plans to the detriment of the licensee.

We respectfully request the Massachusetts Gaming Commission's consideration of our comments. If you or your staff have any questions or would like to discuss further, feel free to contact me or Frank Donaghue directly.

Sincerely,

*Jim Baldacci*

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Jim Baldacci  
Deputy Chief Compliance Officer





**PENN NATIONAL**  
GAMING, INC.

July 16, 2015

Mr. Rick Day  
Executive Director  
Massachusetts Gaming Commission  
84 State Street, 10th Floor  
Boston, MA 02109

**RE: Comments on Draft Rules 139 Continuing Disclosure and Reporting Obligations of Gaming Licensees**

Dear Executive Director Day:

We have reviewed the Massachusetts Gaming Commission's latest draft regulations concerning *Continuing Disclosure and Reporting Obligations of Gaming Licensees* (205 CMR 139) that we received on June 30, 2015. The addition of Section 139.02 alleviates much of what was and remains our primary concern regarding this section, namely the confidentiality of the information required to be provided. We appreciate this addition as well as other changes made related to the comments previously provided to the Commission by Penn and other Massachusetts licensees.

For those sections that were not modified, we have already expressed our concerns and will not repeat them here. We do however, offer the following two additional comments:

**139.04 Reports and information to be filed with the commission**

(6): Indicates that the commission shall make the monthly slot machine payback statistics publicly available on its official website. We have no objection provided such information is presented in aggregate and not by individual slot machine.

**139.05 - Reports and information to be compiled and maintained by the gaming licensee**

1-e: We understand that this regulation was changed from requiring disclosure of all equity holders and bond holders to only requiring equity/bond holders of 2% or more. As previously discussed, we do compile a quarterly list of all owners of Penn stock of 5% and over because we (and most gaming commissions) consider that level of ownership as material and such owners are required to file a public report with the SEC when they reach that level. While increasing the level to 2% is better than requiring 100% disclosure (it will be a much smaller list), we still suggest that the language be changed to only require this information for ownership levels of 5% or more as obtaining a list of all equity holders is expensive and would be out-of-date as soon as we receive it. In virtually every jurisdiction we operate in, disclosure is required at 5% or higher. One jurisdiction requires disclosure at less than 5% but it only includes institutional investors and not individual investors. Ownership by institutional investors is much easier to get than

ownership by all investors.

We appreciate the ability to comment on rules in their draft states and are grateful that the Commission and its staff have shown that they seriously consider such comments throughout the rule promulgation process.

If you or your staff have any questions or would like to discuss further, feel free to contact me directly.

Sincerely,

*Jim Baldacci*

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Jim Baldacci  
Deputy Chief Compliance Officer





TO: Chairman Crosby, Commissioners Cameron, McHugh, Stebbins and Zuniga

FROM: Mark Vander Linden, Director of Research and Responsible Gaming

DATE: July 23, 2015

RE: Status Update on Play Management

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### Background

A key element of the Massachusetts Gaming Commission (MGC) Responsible Gaming Framework is *Strategy 2: Support Informed Player Choice*, which identifies and describes measures to support players' efforts to responsibly manage their gambling. Section 2.2, titled *Play Information and Management systems*, describes specific tools to implement this strategy, including the ability for players to set limits on the amount spent gambling.

In January 2015, the MGC voted to adopt a Play Management system that included limit setting tools on a test basis at Plainridge Park Casino. Since that time, stakeholders including: Penn National Gaming, Bally Technology, Cambridge Health Alliance, Division on Addiction and the Massachusetts Gaming Commission have made significant progress to establish a Play Management for electronic gaming machines (EGM) in Massachusetts.

### Materials completed to date

- Play Management standards document – This document provides the functional requirements for Play Management.
- Evaluation services procurement – The Cambridge Health Alliance, Division on Addiction was selected in April 2015 to conduct evaluation services for key responsible gaming initiatives.
- Evaluation protocol – This document defines the plan that will be used to evaluate utilization (uptake) and effectiveness of Play Management over the study period.
- Play Management kiosks – Two kiosks “wrapped” with GameSense branding have been purchased and are at Plainridge Park Casino. Until Play Management becomes operational, only one of the kiosks is being used in the GameSense Info Center to educate patrons of responsible gaming tools.
- GLI certification/attestation of Bally Pre-commitment – The pre-commitment module for ACSC has received “preliminary “approval for installation (but not activation) at Plainridge Park Casino.

### Materials to be completed

- Framework for EGM content/messaging and graphic standards –This document defines the graphic and message content, flow of enrollment and budget setting, and un-enrollment from Play Management. (significantly complete)



Massachusetts Gaming Commission

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- Framework for kiosk content/messaging and graphic standards - Defines the graphic and message content, flow of enrollment and budget setting, and un-enrollment from Play Management. (significantly complete)
- Casino Management System development to align existing Bally pre-commitment standards with MA standards – This work includes all changes and additions to the Bally pre-commitment software to comply with MA Play Management standards. (significantly complete)
- Testing and approval by stakeholders- When all the changes to the software have been made, key stakeholders will test the functionality of Play Management.
- GLI certification/attestation of MA Play Management system - Once Play Management has been approved by stakeholders; it will be tested again by GLI for final approval.
- User training guide- This document will be the basis for training of all staff that who interacts with patrons using Play Management. The exact audience has not been determined.
- Training of frontline and other select staff- Once the training guide is complete, select staff will be trained on how to use and assist patrons with Play Management.
- Go live at Plainridge Park Casino

**Estimated timeline for completion**

Based on the work to be done, I expect Play Management will be complete and ready for implementation at Plainridge Park Casino in September – October 2015.



**No Documents**

**No Documents**

**No Documents**