

# 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 Any and all of 205 CMR 3.00 may be amended, altered, repealed or supplemented by new and additional rules.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 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.

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.

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.

Law or Laws shall mean M.G.L. c. 128 A (being the general laws pertaining to horse racing) together with any and all amendments thereto.

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."

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**

(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.**

- (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.

### **3.06: Corporations**

(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**

(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.

### **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.

(7) No person shall use improper, profane or indecent language to a racing official.

(8) 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.

(9) 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.

(11) 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(11).

(12) Any person who has been convicted by any court anywhere for illegal possession, sale or giving away of narcotics may be ruled off.

(13) 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.

(14) 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.

(15) 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.

(16) 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.

(17) 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.

(18) Any horse that has been the subject of fraudulent practice may be disqualified.

(19) 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.

(23) 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.

(24) 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.

### **3.13: Licensee: Duties, Obligations, etc.**

(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 Accountant 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.

### **3.14: Licenses, Registrations and Fees for Participants in Racing**

(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(1) 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.

### **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.

### **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 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.

### **3.19: Urine, Other Tests and Examinations** *(Repealed)*

### **3.20: Stable Employees**

(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.

### **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 Day. 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 in, 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) 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) 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(4) shall be considered to have committed a Prohibited Practice and is subject to a Class A Penalty.

(5) The use of a nasogastric tube (a tube longer than six inches) for the administration of any substance within 24 hours prior to the post time of the race in which the horse is entered is prohibited without the prior permission of the official veterinarian or his or her designee.

### **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.

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 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.

5. The official ARCI record shall 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:

<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(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' ruling shall distinguish between the penalty for the underlying offense and the enhancement based upon the licensed trainer's cumulative points.

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 as follows:

<b>Penalty Classification</b>	<b>Time to Expungement</b>
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.

(b) The presence of any unapproved NSAID in the post-race serum or plasma sample is not permitted.

(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.

(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.

### **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.