

3.13: Licensee: Duties, Obligations, etc.

- (1) No person younger than 16 years of age shall be employed in or about the track of any association, except as may be permitted by M.G.L. c. 149, § 60.
- (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 bets to be made on the grounds on any race run outside said grounds except for simulcasts authorized and approved by the Gaming Commission.

(13) Warning Light System: Every licensee authorized by the Commission to conduct harness horse racing within the Commonwealth of Massachusetts shall be equipped with a three-light system of green, yellow and red beacon style lights and sirens for use in the event of an accident. It shall be the duty of the judges to monitor, control and trigger the accident-warning lights. From the time medical assistance is available, the judges will activate the green "all clear" light to signal no known problems on the racetrack.

(1) If at any point during the card the judges determine there is a condition on the

racetrack requiring the drivers to proceed with caution, the judges will activate the yellow "caution" warning light.

(2) The judges shall activate the red light and siren to declare a race a "no contest" due to safety issues. Upon the activation of the red light and siren, all drivers in a race will immediately cease racing and follow any instructions of the judges, starter, track announcer, or racing officials to get off the track as quickly and safely as they can. Drivers refusing to stop racing may be subject to a monetary penalty or suspension.

(3) When the red "no contest" light is turned off, the judges will activate the green "all clear" light as a signal for warm-ups and live racing to resume.

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~~(13)~~(14) No gambling device, other than permitted by law, shall be permitted on the grounds. Petty games of chance are prohibited.

~~(14)~~(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.

~~(15)~~(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.

~~(16)~~(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.

~~(17)~~(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 was originally ejected in accordance with the procedure provided for in 205 CMR 3.13(17).

~~(18)~~(19) Purse Money shall not be paid to the winners thereof earlier than 48 hours following their winning.

~~(19)~~(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.

~~(20)~~(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.

~~(21)~~(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.

~~(22)~~(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.

~~(23)~~(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.

~~(24)~~(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 31st of the year of issue, except stable employees whose license expire on March 31st.

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, § 44 and 330 CMR 16.05: *Prevention and Suppression of Equine Infectious Anemia*.
- (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 or employ more than ~~one~~two trainers 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.

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) A trainer shall ensure that all buckles on front hobble hangers and driving line buckles attached to the bit as well as side straps on number pads shall be taped for all races.

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- (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, § 44 and 330 CMR 16.05: *Prevention and Suppression of Equine Infectious Anemia*.
- (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.

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- (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 USTA rules.
 - (j) Affidavit by Claimant. The Judges shall require any person making a claim for a horse to make affidavit that he 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 USTA 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.

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(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 Gaming 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 Gaming 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 provided in 205 CMR 3.23(11)(j). 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.

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- (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 205 CMR 3.23 at any time during the eligibility period.

(12) Voided Claim: A claim shall be voided if a horse is a starter and the horse:

- (a) Dies on the racetrack; or
- (b) Suffers an injury which requires the euthanasia of the horse, as determined by an Association Veterinarian, while the horse is on the racetrack.

(13) A claim is voidable at the sole discretion of the new owner, for a period of up to thirty (30) minutes after the race is made official, for any horse that:

- (a) Is vanned off the track after the race at the discretion of the Association Veterinarian; or
- (b) Is sent to the detention barn and observed to be lame by the State and/or Association Veterinarian; or
- (c) Is placed on the Veterinarian's List for Epistaxis.

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 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:

- (a) be employed by the Commission;
- (b) be a graduate veterinarian and be licensed to practice in this jurisdiction;
- (c) recommend to the judges any horse deemed unsafe to be raced, or a horse that it would be inhumane to allow to race;
- (d) place horses on the Veterinarian's List, when necessary, and remove horses from the Veterinarian's List;
- (e) place horses on the Furosemide List and remove horses from the Furosemide List;

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- (f) maintain a continuing health and racing soundness record of each horse given a racing soundness inspection;
- (g) have the authority to supervise and control the Test Barn;
- (h) supervise the taking of all specimens for testing according to procedures approved by the Commission;
- (i) provide proper safeguards in the handling of all laboratory specimens to prevent tampering, confusion or contamination;
- (j) 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;
- (k) report to the Commission the names of all horses humanely destroyed or which otherwise expire at the race meeting and the reasons therefore;

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- (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 of age, 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.

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(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 at a secure location approved by the Commission.

2. A freezer 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 is opened to specify each person in attendance, the purpose for opening the freezer, identification of split samples deposited or removed, the date and time the freezer was opened, and the time the freezer was closed.

3. Any evidence of a malfunction of a split sample freezer 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 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, 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;
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;
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 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.

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(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.

(k) The Commission shall make all reasonable efforts to obtain a sufficient sample to split, however, it makes no guarantee as to the amount of sample that will be available for the split sample:

1. If the referee laboratory confirms substantially the primary laboratory findings, the original findings of the primary laboratory shall be considered conclusive.

2. If the split sample was not of sufficient quantity for the referee laboratory to conduct valid testing the original findings of the primary laboratory shall be considered conclusive.

3. If the referee laboratory is provided with the split sample and is unable to reach a valid testing conclusion for any other reason, the findings of the primary laboratory shall be considered conclusive.

(4) Frozen Samples. The Commission has the authority to direct the official laboratory to retain and preserve by freezing samples for future analysis. The fact that purse money has been distributed prior to the issuance of a laboratory report from the future analysis of a frozen sample shall not be deemed a finding that no drug substance prohibited by 205 CMR 3.00 has been administered.

(5) Suspicious Substances. The representatives of the Commission may take for analysis samples of any medicine or other materials suspected of containing improper medication or drugs which could affect the racing conditions of a horse in a race, which may be found in the stable area or elsewhere on the track or in the possession of any person connected with racing on such tracks.

3.33 : Postmortem Examinations

(1) The Commission may require a *postmortem* examination of any horse that dies or is euthanized on association grounds.

(2) The Commission may require a *postmortem* examination of any horse that dies or is euthanized at recognized training facilities within this jurisdiction.

(3) If a *postmortem* examination is to be conducted, the Commission shall take possession of the horse upon death for *postmortem* examination. All shoes shall be left on the horse.

(4) If a *postmortem* examination is to be conducted, the Commission or its representative shall collect blood, urine, bodily fluids, or other biologic specimens immediately, if possible before euthanization. The Commission may submit blood, urine, bodily fluids, or other biologic specimens collected during a *postmortem* examination for analysis. The presence of a prohibited substance in a specimen collected during the *postmortem* examination may constitute a violation.

(5) All licensees shall be required to comply with *postmortem* examination requirements as a condition of licensure. In proceeding with a *postmortem* examination, the Commission or its designee shall coordinate with the owner or the owner's authorized agent to determine and address any insurance requirements.

3.34 : Environmental Contaminants and Substances of Human Use

ARCI Endogenous, Dietary, or Environmental Substances Schedule.

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- (1) Environmental contaminants are either endogenous to the horse or can arise from plants traditionally grazed or harvested as equine feed or are present in equine feed because of contamination during the cultivation, processing, treatment, storage or transportation phases.
- (2) Substances of human use and addiction may be found in the horse due to its close association with humans.
- (3) If the preponderance of evidence presented in the hearing shows that a positive test is the result of environmental contamination, including inadvertent exposure due to human drug use, or dietary intake, or is endogenous to the horse, those factors should be considered in mitigation of any disciplinary action taken against the affected trainer. Disciplinary action shall only be taken if test sample results exceed the regulatory thresholds in the most recent version of the

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- (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.
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- (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.

(6) Mortality Review: The Massachusetts Gaming Commission Director of Racing shall conduct a review for the purpose of gathering information surrounding the death of each racehorse and to have an open communication between the following listed individuals regarding issues which may have led to the incident and to ultimately arrive, if possible, at conclusions and recommendations to the appropriate entity or person. The Director of Racing shall consult the following:

- 1. the racetrack's Director of Racing or a designee;
- 2. the Association Judge and a Massachusetts Gaming Commission Judge;
- 3. the Chief Commission Veterinarian or a designee;
- 4. the on-track Association Veterinarian;
- 5. the trainer of the deceased horse;
- 6. the driver of the deceased horse;
- 7. the attending veterinarian;
- 8. the track superintendent;
- 9. the horseperson's representative; and
- 10. any other person the Director of Racing determines is necessary to adequately examine the death.

3.34 : Environmental Contaminants and Substances of Human Use

- (1) Environmental contaminants are either endogenous to the horse or can arise from plants traditionally grazed or harvested as equine feed or are present in equine feed because of contamination during the cultivation, processing, treatment, storage or transportation phases.
- (2) Substances of human use and addiction may be found in the horse due to its close association with humans.
- (3) If the preponderance of evidence presented in the hearing shows that a positive test is the result of environmental contamination, including inadvertent exposure due to human drug use, or dietary intake, or is endogenous to the horse, those factors should be considered in mitigation of any disciplinary action taken against the affected trainer. Disciplinary action shall only be taken if test sample results exceed the regulatory thresholds in the most recent version of the ARCI Endogenous, Dietary, or Environmental Substances Schedule.

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(4) The identification and adoption of these uniform thresholds for certain substances shall not preclude an individual jurisdiction from maintaining thresholds for substances not on this list which predate the adoption of 205 CMR 3.34 in such jurisdiction.

3.35 : Adoption of United States Trotting Association Rules and Regulations

The Massachusetts Gaming Commission adopts the United States Trotting Association (USTA) 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 USTA 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.

REGULATORY AUTHORITY

205 CMR 3.00: M.G.L. c. 128A, § 9.