

**13:71-1.13 Narcotic or drug convictions**

No person who has been convicted for illegal possession, sale or distribution of narcotics or hallucinogenic drugs or other "controlled dangerous substances" as defined by Title 24 of the New Jersey Statutes shall be permitted on the grounds of any association.

As amended, R.1982 d.109, effective April 5, 1982.  
See: 13 N.J.R. 820(a), 14 N.J.R. 347(a).  
Section substantially amended.

**13:71-1.14 Crimes regarding moral turpitude**

No person shall be employed in any capacity whatsoever at any place, track or enclosure where a horse race meeting is permitted who has been convicted of a crime involving moral turpitude.

**13:71-1.15 Reinstatement of horses**

When a person is ruled off a course or suspended, every horse owned in whole or part by him shall be ineligible to be entered or to start in any race until said horse has been reinstated either by the rescinding of his owner's penalty or by his transfer through bona fide sale to any ownership acceptable to the stewards.

**13:71-1.16 Qualifications for reinstatement**

When a person is ruled off a course or suspended, any horse which is under his 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 hands of a licensed trainer and the approval of the transfer by the stewards.

**13:71-1.17 Recision of penalties**

When a person is ruled off a course or suspended, he 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 own name or in that of any other person until the rescinding of that person's penalty.

**13:71-1.18 (Reserved)**

As amended, R.1982 d.109, effective April 5, 1982.  
See: 13 N.J.R. 820(a), 14 N.J.R. 347(a).

**13:71-1.19 Stewards determination of fines**

The steward and the Board of Judges may fine, suspend or rule off any person who, in their opinion, has acted to the detriment of racing or violated the rules.

As amended, R.1982 d.109, effective April 5, 1982.  
See: 13 N.J.R. 820(a), 14 N.J.R. 347(a).  
"Stewards" changed to "steward"; "Board of Judges" added.

**Case Notes**

Veterinarian's use of non-FDA-approved drug for his own horse at his own farm in another state; not conduct detrimental to racing. *Chovanes v. New Jersey Racing Commission*, 93 N.J.A.R.2d (RAC) 5.

**13:71-1.20 Authority to impose penalties; report; payment**

(a) The authority of the steward and the Board of Judges shall extend to any and all situations which are not specifically covered by these rules.

(b) No race official other than the steward, the Board of Judges, and the starter shall have the right to impose a fine or suspension, in the first instance. (see N.J.A.C. 13:71-3, Appeal for exception). A race official imposing a fine or suspension shall report it promptly to the Executive Director of the Racing Commission and the race secretary, in writing. All fines imposed shall be paid to the race secretary within 48 hours after the imposition thereof. Fines collected by the race secretary shall be paid promptly to the Racing Commission. An unpaid fine may not be rescinded except with the approval of the Racing Commission.

Otherwise, penalties may be applied individually to the drivers of any entry.

Administrative correction.  
See: 29 N.J.R. 585(a).

### 13:71-20.9 Placing offending horse

In case of interference, collision or violation of any of the rules, the offending horse may be placed behind all the unoffending horses in that heat or dash, and in the event such collision or interference prevents any horse from finishing the heat or dash, the offending horse may be disqualified from receiving any winnings and the driver may be penalized.

#### Case Notes

Initial Decision (2005 N.J. AGEN LEXIS 570) adopted, which concluded that penalty imposed by the Racing Commission Board of Judges was commensurate with the offense where board placed respondent's horse in second rather than first place due to violation of N.J.A.C. 13:71-20.6, entering into the extended inside lane during the homestretch. N.J. Racing Comm'n v. Doherty, OAL Dkt. No. RAC 8778-04, 2005 N.J. AGEN LEXIS 1478, Final Decision (November 15, 2005).

### 13:71-20.10 Fraudulent or unsatisfactory driving

(a) Every heat in a race must be contested by every horse in the race and every horse must be driven to the finish. If the judges believe that a horse is being driven, or had been driven, with design to prevent his winning a heat or dash which he was evidently able to win, or is being raced in an inconsistent manner, or to perpetrate or to aid a fraud, they shall consider it a violation and the driver, and anyone in concert with him to so affect the outcome of the race or races, may be penalized. The judges may in such cases substitute a driver. The substitute driver shall be paid at the discretion of the judges and the fee retained from the purse money due the horse, if any.

(b) In the event a drive is unsatisfactory due to lack of effort, carelessness, misjudgment, or demonstrated lack of judgment in performance, and the judges believe that there is no fraud, gross carelessness, or a deliberate inconsistent

drive, they may impose a penalty similarly under this subsection.

(c) The length of suspension of a driver may be increased by the judges, stewards or Racing Commission if said driver is guilty of the same infractions of the rules of racing two times or more during any calendar year.

As amended, R.1976 d.125, effective April 22, 1976.  
See: 8 N.J.R. 47(b), 8 N.J.R. 308(a).

#### Case Notes

Executive Director's improper ex parte communication with Board of Judges specifying exceptionally harsh and excessive sanction for licensee's lack of effort or carelessness in course of race tainted final determination of Racing Commission where sanction specified by Executive Director was eventually imposed by Board and affirmed by Commission. New Jersey Racing Com'n v. Silverman, 303 N.J.Super. 293, 696 A.2d 771 (N.J.Super.A.D.1997).

Suspension for violation in driving in unsatisfactory manner as a result of lack of effort, carelessness, misjudgment or demonstrated lack of judgment in performance (also cited as N.J.A.C. 13:17-20.10). DeVitis v. New Jersey Racing Commission, 202 N.J.Super. 484, 495 A.2d 457 (App.Div.1985), certification denied 102 N.J. 337, 508 A.2d 213 (1985).

Racing license suspension for inconsistent driving dismissed. *Cito v. New Jersey Racing Commission*, 97 N.J.A.R.2d (RAC) 15.

Racehorse driver's license was suspended for 45 days for holding horse back during race. *New Jersey Racing Commission v. Silverman*, 96 N.J.A.R.2d (RAC) 7.

### 13:71-20.11 Removal and substitution of unfit or incompetent drivers

If in the opinion of the judges a driver is for any reason unfit or incompetent to drive or refuses to comply with the directions of the judges, or is reckless in his conduct and endangers the safety of horses or other drivers in the race, he may be removed and another driver substituted at any time after the positions have been assigned in a race, in which case, the offending driver may be penalized. The substitute driver shall be properly compensated.

**13:71-20.12 Failure to finish**

If for any cause other than being interfered with, broken equipment or unavoidable accident, a horse fails to finish after starting a heat, that horse shall be ruled out.

**13:71-20.13 Shouting**

Shouting is forbidden during a race by a driver therein.

**13:71-20.14 Whips**

Drivers will be allowed whips not to exceed four feet, eight inches, plus a snapper not longer than eight inches.

Petition for Rulemaking.  
See: 40 N.J.R. 5857(a), 40 N.J.R. 6660(a).  
Petition for Rulemaking.  
See: 41 N.J.R. 1275(c).

**13:71-20.15 Use of goading devices, and so forth**

The possession or use of a goading device, chain or mechanical devices or appliances, other than the ordinary whip, upon any horse in any race shall constitute a violation of this rule. The brutal use of a whip or blunt spur, kicking a horse with a foot, striking a horse with the whip under the seat of the sulky or indiscriminate use of a whip may be considered a violation.

As amended, R.1982 d.109, effective April 5, 1982.  
See: 13 N.J.R. 820(a), 14 N.J.R. 347(a).  
Section substantially amended.  
Petition for Rulemaking.  
See: 40 N.J.R. 5857(a), 40 N.J.R. 6660(a).  
Petition for Rulemaking.  
See: 41 N.J.R. 1275(c).

**Case Notes**

Jockey's repeated kicking of horse violated regulation; suspension. Manzi v. New Jersey Racing Commission, 93 N.J.A.R.2d (RAC) 23.

Harness driver's kicking of horse; nine day suspension. Silverman v. New Jersey Racing Commission, 92 N.J.A.R.2d (RAC) 3.

**13:71-20.16 Hobbles, head pole**

No horse shall wear hobbles in a race unless he starts in the same in the first heat or dash, and having so started he shall continue to wear them to the finish of the race. Any person found guilty of removing or altering a horse's hobbles during a race, or between races for the purpose of fraud, shall be penalized. Any horse habitually wearing hobbles shall not be permitted to start in a race without them except by the permission of the judges. No horse shall be permitted to wear a head pole protruding more than 10 inches beyond its nose.

As amended, R.1982 d.109, effective April 5, 1982.  
See: 13 N.J.R. 820(a), 14 N.J.R. 347(a).  
"Hobbles" changed from "Hopples".

**13:71-20.17 Breaking**

(a) When any horse or horses break from their gait in trotting or pacing, their drivers shall at once, where clearance exists, take such horse to the outside and pull it to its gait.

(b) The following shall be considered violations of this section:

1. Failure to properly attempt to pull the horse to its gait;
2. Failure to take to the outside where clearance exists;
3. Failure to lose ground by the break.

(c) If there has been no failure on the part of the driver in complying with 1, 2 and 3 above, the horse shall not be set back unless a contending horse on his gait is lapped on the hind quarter of the breaking horse at the finish.

(d) The judges may set any horse back one or more places if in their judgment any of the violations of this section have been committed, and the driver may be penalized.

Petition for Rulemaking.  
See: 40 N.J.R. 2607(a), 3759(a).

**Case Notes**

Breaking gait; finish order changed. Beissinger v. New Jersey Racing Commission, 92 N.J.A.R.2d (RAC) 14.

**13:71-20.18 Fraudulent breaking**

If a driver allows his horse to break for the purpose of fraudulently losing a heat or dash, he shall be liable to the penalties provided for in N.J.A.C. 13:71-2.3.

Amended by R.1990 d.126, effective February 20, 1990.  
See: 21 N.J.R. 3861(a), 22 N.J.R. 667(a).  
N.J.A.C. cite added.

**13:71-20.19 Calling and noting breaks**

To assist in determining the matters relating to accurate charting of races, it shall be the duty of one of the judges to call out every break made and the clerk shall at once note the break made and character of it in writing.

**13:71-20.20 Time between heats or dashes**

The time between heats or dashes for any distance up to and including a mile shall not be less than 15 minutes; for any distance between one and two miles, 20 minutes.

As amended, R.1982 d.109, effective April 5, 1982.  
See: 13 N.J.R. 820(a), 14 N.J.R. 347(a).  
"15" was "25", "20" was "30".

**13:71-20.21 Right of the course**

Horses called for a race shall have the exclusive right of the course and all other horses shall vacate the track at once unless permitted to remain by the judges.

**13:71-20.22 Accidents**

In the case of accidents, only so much time shall be allowed before continuing as the judges may deem necessary and proper.

**13:71-20.23 Registration of nerved horses**

(a) Blocking of nerve functions via surgical neurectomy, cryogenic techniques, or any other desensitizing means, whether permanent or temporary, is defined as "nerving".

(b) Only posterior digital "nerving" will be permitted on horses to be raced. The procedure must be performed posterior to the first phalanx at a level below the base of the sesamoid bones.

(c) Horses that are "nerved" above the area specified in (b) above will not be permitted to race in New Jersey.

(d) It shall be the responsibility of the owner and/or trainer to report all "nerved" horses to the State or Associate State Veterinarian.

(e) A list of all "nerved" horses shall be posted on the bulletin board at the entry room by the State Veterinarian.

Amended by R.1982 d.109, effective April 5, 1982.  
See: 13 N.J.R. 820(a), 14 N.J.R. 347(a).  
New Rule, R.1988 d.74, effective February 16, 1988.  
See: 19 N.J.R. 2125(a), 20 N.J.R. 406(a).  
Repealed existing rule and inserted new.

**13:71-20.24 Equine fatality report**

(a) An equine fatality report shall be submitted to the New Jersey Racing Commission regarding any equine death occurring on the grounds of any licensed racetrack or approved off-track stabling facility. It shall be the responsibility of the trainer or custodian of the deceased animal to file said report which shall be complete in all particulars.

(b) Said report shall be on forms prescribed by the Commission and shall include the following information and any other information deemed necessary by the Commission:

1. Name and tattoo number of deceased equine;
2. Trainer of record;
3. Owner of record and particulars regarding purchase of equine;
4. Particulars as to time, date and place of death;
5. Disclosure of any post-mortem examination;
6. Attending veterinarian;
7. Cause of death;
8. Particulars as to removal of carcass; and
9. Pertinent information regarding existing insurance coverage.

(c) The attending veterinarian shall certify the cause of death and shall submit a report describing all administration of medication or drugs to said animal within the 96 hour period preceding the time of death.

(d) Failure to file the foregoing in a timely fashion or filing in an incomplete fashion may subject the trainer, custodian or veterinarian to disciplinary action.

1. Any falsification or misstatement submitted in connection with an equine fatality report may also subject the trainer, custodian and/or veterinarian to disciplinary action as provided in N.J.A.C. 13:71-2.3.

(e) An equine fatality report shall not be required in connection with any pony or mascot.

R.1984 d.105, effective April 2, 1984.  
See: 16 N.J.R. 224(a), 16 N.J.R. 743(b).

---

**SUBCHAPTER 21. PLACING CONDITIONS AND PURSES**
**13:71-21.1 Purses, distributed on dash basis, adjustments**

Unless otherwise provided in the conditions, all purses shall be distributed on the dash basis with the money awarded according to a horse's position in each separate dash or heat of the race. Any adjustment in payments to be made by an association shall be made during the week wherein the race giving rise to the adjustment occurred.

**13:71-21.2 Dashes**

(a) Unless otherwise specified in the conditions, the money distribution in dashes shall be 50 percent, 25 percent, 12 percent, eight percent and five percent. Where, in early closing races, late closing races or added money events, there are less than five starters, the remaining premium shall go to the race winner unless the conditions call for a different distribution. Where, in overnight events, there are less than five starters, the premium for which positions for each there are no starters may be retained by the association.

(b) If there be any premium or premiums for which horses have started but were unable to finish due to an accident or otherwise, all unoffending horses who did not finish will share equally in such premium or premiums.

As amended, R.1982 d.109, effective April 5, 1982.  
See: 13 N.J.R. 820(a), 14 N.J.R. 347(a).  
(a) "50" was "45", "12" was "15", "eight" was "ten".  
Petition for Rulemaking.  
See: 42 N.J.R. 90(a), 556(b).

**13:71-21.3 Every heat a race**

The purse shall be distributed as in dash races with nothing set aside for the race winner.

1. Atropine;
2. Dimethyl sulfoxide;
3. Estranediol;
4. Hydrocortisone;
5. Morphine and Metabolites;
6. Salicylic acid;
7. Scopolamine;
8. Strychnine;
9. Testosterone;
10. Theobromine; or
11. Theophylline.

(j) If a horse tests positive for one of the substances identified in (i) above, within 10 days of being notified of the positive test, the trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, may request in writing a hearing before the Board of Judges for the purpose of determining whether the positive test resulted from environmental contamination as described in (i) above. The trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, shall have the burden of proof at the hearing. If the trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, meet their burden of proof in showing environmental contamination as described in (i) above, the Board of Judges shall consider the environmental contamination as a mitigating circumstance in assessing a penalty.

(k) Regulatory thresholds (the concentration of the drug below which no administrative action is taken) are established for caffeine as 100 nanograms per milliliter (100 ng/mL) of serum or plasma. A positive test which exceeds the regulatory threshold will subject trainers and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, to penalties consistent with those permitted by the New Jersey Racing Commission rules.

Amended by R.1988 d.183, effective April 18, 1988.

See: 20 N.J.R. 250(a), 20 N.J.R. 912(c).

Changed time a second time bleeder must remain on respiratory list from three months to 30 days; added third time bleeder to be kept for three months.

Amended by R.1990 d.486, effective October 1, 1990 (operative January 1, 1991).

See: 22 N.J.R. 1718(a), 22 N.J.R. 3155(a).

Authorizes the administration of medication in assigned stall instead of detention barn and establishes dosage levels and time requirements recommended by the Association of Racing Commissioners International; provides for disciplinary action in the event of excessive drug levels as per post-race testing.

Amended by R.1990 d.575, effective November 19, 1990 (operative January 1, 1991).

See: 22 N.J.R. 1233(c), 22 N.J.R. 3500(b).

Provides for the acceptance of certification of respiratory bleeders from racing commissions in other jurisdictions.

Amended by R.1991 d.264, effective May 20, 1991.

See: 23 N.J.R. 675(c), 23 N.J.R. 1684(e).

Changed "14 calendar days" to "10 calendar days"; changed "three months" to "90 days" in (d).

Amended by R.1992 d.18, effective January 6, 1992.

See: 23 N.J.R. 2919(d), 24 N.J.R. 109(a).

Revised (a)2.

Amended by R.1994 d.128, effective March 7, 1994.

See: 25 N.J.R. 3105(a), 26 N.J.R. 1240(a).

Amended by R.1995 d.297, effective June 5, 1995.

See: 26 N.J.R. 1957(a), 27 N.J.R. 2244(b).

Amended by R.1996 d.445, effective October 7, 1996.

See: 28 N.J.R. 3055(a), 28 N.J.R. 4488(b).

Administrative correction.

See: 29 N.J.R. 448(b).

Amended by R.1997 d.91, effective February 18, 1997.

See: 28 N.J.R. 5057(a), 29 N.J.R. 584(b).

In (a)2, inserted reference to observation by a licensed veterinarian on the racetrack grounds.

Petition for Rulemaking.

See: 35 N.J.R. 1456(c), 1741(c), 2755(a).

Petition for Rulemaking: New Jersey Racing Commission; Notice of

Action on Petition for Rulemaking: Administering Medication to Respiratory Bleeders.

See: 38 N.J.R. 1881(a), 1881(b), 2893(b), 2893(c), 4762(c), 4763(a).

Amended by R.2006 d.227, effective June 19, 2006.

See: 38 N.J.R. 1396(a), 38 N.J.R. 2727(b).

Section was "Administering medication to respiratory bleeders; standards for the administration of phenylbutazone". Rewrote section.

Amended by R.2007 d.172, effective May 21, 2007.

See: 38 N.J.R. 4820(b), 39 N.J.R. 2135(a).

Added (a)4; and in the introductory paragraph of (b), deleted "as observed by the State Veterinarian" following "workout".

Amended by R.2007 d.375, effective December 17, 2007.

See: 39 N.J.R. 3280(a), 39 N.J.R. 5365(a).

Added new (a)4 and (a)5; and recodified former (a)4 as (a)6.

Amended by R.2011 d.273, effective November 7, 2011.

See: 43 N.J.R. 728(a), 43 N.J.R. 3037(a).

Section was "Administering medication to respiratory bleeders; standards for the administration of non steroidal anti-inflammatory drugs (NSAID) and anti-ulcer medications; environmental contaminants". In (f)1i, substituted "two" for "five" twice.

#### Case Notes

Rule sets forth the association between the administration of drugs and the need to protect horses from them. *Gallo v. New Jersey Racing Commission*, 6 N.J.A.R. 381 (1983).

#### 13:71-23.9 Possession of drugs or drug instruments

(a) No person aside from licensed veterinarians shall have in his possession anywhere within the grounds of any association conducting a race meeting, or anywhere within the confines of a racetrack enclosure, or anywhere within the grounds of any licensed off-track stabling facility, any drugs not possessed in accordance with the laws of the State of New Jersey, nor any contraband drug or unauthorized prescription legend drugs, nor any hypodermic syringes or needles, or any other instrument which may be used for injection, unless the injectable device is possessed for self-administration, and further provided that the individual possessing such device promptly notify the State Steward:

1. That he is in possession of such device; and
2. Of the chemical substance to be administered.

Amended by R.1993 d.261, effective June 21, 1993.

See: 24 N.J.R. 1061(a), 25 N.J.R. 2488(b).

**Case Notes**

Initial Decision (2005 N.J. AGEN LEXIS 394) adopted, which provided that trainer be permanently expelled from racing in New Jersey, denied the privilege of entering any track or premises licensed by the Commission, and fined a total of \$7,500. Ex parte proofs showed that trainer engaged in a clear course of conduct designed to result in performance reversals of horses in his care as a trainer, that he was observed giving horses injections and using other methods such as "milkshaking" to deliver performance enhancing drugs and substances, and it had been established that as a result of search of trainer at an off-track stabling facility that he had in his possession not only performance-enhancing drugs, but also at least one controlled dangerous substance, testosterone. *Sheddan v. N.J. Racing Comm'n*, OAL Dkt. No. RAC 2400-04, 2005 N.J. AGEN LEXIS 1476, Final Decision (September 19, 2005).

Horse trainer's abuse of veterinary practices and drugs resulting in horse's death warranted three-year license suspension. *Glemser v. New Jersey Racing Commission*, 96 N.J.A.R.2d (RAC) 26.

Possession of chondroitin sulphate, an unclassified substance possession of which is not violative of any State or Federal law, does not violate this rule; possession of hypodermic needle and syringe found to be a violation; rule sets forth the association between the administration of drugs and the need to protect horses from them (citing former N.J.A.C. 13:71-23.12). *Gallo v. New Jersey Racing Commission*, 6 N.J.A.R. 381 (1983).

**13:71-23.10 Illegal devices**

No electrical, mechanical or other appliance or device other than the ordinary whip shall be applied to a horse at any place on the grounds of any licensed racetrack. Any person so offending shall be suspended by the judges and referred to the Commission for license revocation. Possession of any such device anywhere on the grounds of a licensed racetrack may be punished by fine and/or suspension.

**13:71-23.11 Narcotics conviction; denial of license**

Any person who has been convicted of possession or use of narcotics by any court in the land shall be denied a license or ruled off or both as the Commission may decide.

**Case Notes**

Initial Decision (2005 N.J. AGEN LEXIS 394) adopted, which provided that trainer be permanently expelled from racing in New Jersey, denied the privilege of entering any track or premises licensed by the Commission, and fined a total of \$7,500. Ex parte proofs showed that trainer engaged in a clear course of conduct designed to result in performance reversals of horses in his care as a trainer, that he was observed giving horses injections and using other methods such as "milkshaking" to deliver performance enhancing drugs and substances, and it had been established that as a result of search of trainer at an off-track stabling facility that he had in his possession not only performance-enhancing drugs, but also at least one controlled dangerous substance, testosterone. *Sheddan v. N.J. Racing Comm'n*, OAL Dkt. No. RAC 2400-04, 2005 N.J. AGEN LEXIS 1476, Final Decision (September 19, 2005).

**13:71-23.12 Cooperation with other agencies; violations of law**

Every association, all officials and employees thereof, and all persons licensed in any capacity by the Commission shall give every possible cooperation, aid and assistance to any department, bureau, division, officer, agent or inspector, or any

other person connected with the United States Government or with the State of New Jersey, who may be investigating or prosecuting any matter involving a violation of any law, or any rules or regulations of the Commission.

**Case Notes**

The Racing Commission has decided, through rulemaking, to exercise strict control over the use of narcotics. *Maietta v. New Jersey Racing Commission*, 93 N.J. 1, 459 A.2d 295 (1983).

**13:71-23.13 State Police; responsibilities**

The enforcement of N.J.S.A. 5:5-71 and other criminal laws of the State of New Jersey shall be the responsibility of the State Police. Investigation pursuant to the enforcement of N.J.S.A. 5:5-71 or other criminal laws of the State shall take precedence over any action taken by the association or the Racing Commission concerning an incident arising from an alleged violation of the provisions of this subchapter. Every association and Racing Commission official and employee shall render full cooperation, aid and assistance in any investigation undertaken for a reasonably apparent violation of N.J.S.A. 5:5-71 or other criminal statutes of the State. Further, every association and Racing Commission official and employee, on becoming aware of a reasonably apparent violation of N.J.S.A. 5:5-71 or other criminal laws of the State of New Jersey, shall communicate in writing the circumstances of such immediately to the New Jersey Racing Commission and the State Police who shall evaluate same and take whatever further action is deemed necessary.

**Case Notes**

Finding of entrapment by State Police and dismissal of criminal proceedings against jockey applicant did not prevent the use of incriminating evidence at licensing hearing. *Delguidice v. New Jersey Racing Commission*, 100 N.J. 79, 494 A.2d 1007 (1985).

Rule cited as example of Commission's reliance on conventional law enforcement services; denial of groom's license held arbitrary as the Rehabilitated Convicted Offender Act applies to Commission's licensing function (citing former N.J.A.C. 13:71-23.18). *Maietta v. New Jersey Racing Commission*, 183 N.J.Super. 397, 444 A.2d 55 (App.Div.1982), affirmed 93 N.J. 1, 459 A.2d 295 (1983).

**13:71-23.14 Anti-recombinant human EPO antibody testing program**

(a) A determination by the Racing Commission Equine Testing Laboratory that a pre-race or post-race blood sample taken from a horse entered to start in a race pursuant to N.J.A.C. 13:71-23.2, or a portion of a post-race blood sample taken from a horse entered to start in a race pursuant to N.J.A.C. 13:71-23.2(a) and 23.4(a), is positive for elevated titers of anti-recombinant human EPO antibody, as a result of post-race testing utilizing the anti-recombinant human EPO antibody test, shall result in the following actions by the Racing Commission Board of Judges:

1. The Racing Commission State Veterinarian shall be notified of the name of the horse for placement on the Steward's list pursuant to N.J.A.C. 13:71-16.8.

2. The Racing Commission State Steward shall be notified, and upon such notification, the State Steward shall authorize a search of the premises occupied by the stable involved pursuant to N.J.A.C. 13:71-23.5.

3. Unless the Board of Judges determine otherwise as a result of a hearing requested pursuant to (a)4 below, the horse shall not be permitted to enter a race or to race until such time as the owner or trainer makes the horse available for retesting by the Racing Commission pursuant to (b) below, and the testing results are determined negative with the anti-recombinant human antibody test. In the event retesting determines that the horse is negative with the anti-recombinant human EPO antibody test, the Board of Judges shall cause the horse to be removed from the Steward's list and the horse shall be eligible to enter races and compete in races.

4. The owner and trainer of the horse shall be notified by the Board of Judges in writing of: the initial positive test result for elevated titers of anti-recombinant human EPO antibody; that a hearing will be afforded by the Board of Judges, following written request to them, at which hearing the owner and/or trainer of the horse can challenge the validity of the positive results of the Racing Commission Equine Testing Laboratory, and that the horse is not permitted to race until the terms of (b) below are satisfied, unless the results of any requested hearing demonstrates to the satisfaction of the Board of Judges that the horse was negative for elevated titers of anti-recombinant human EPO antibody as a result of the initial anti-recombinant human EPO antibody test. In the latter case, the Board of Judge's shall remove the horse from the Steward's list and the horse shall be permitted to race.

(b) An owner or trainer whose horse has tested positive for elevated titers of anti-recombinant human EPO antibody may not request that its horse be retested until 21 days following the date of the initial positive test as reported by the Racing Commission's Equine Testing Laboratory. If any retest of the horse results in a Racing Commission determination that the horse is or remains positive with the anti-recombinant human EPO antibody test, the owner or trainer may not request that its horse be retested again until 21 days following the date of the last positive retest as reported by the Racing Commission's Equine Testing Laboratory. All requests after the initial positive test for the retesting of a horse shall be in writing and directed to the Board of Judges, accompanied by a \$50.00 payment for administrative and testing costs. Following receipt of a timely request for retesting, the production of the horse at a permitted racetrack premises in this State approved by the Board of Judges, and the receipt of the \$50.00 retesting fee, the Board of Judges shall direct the State Veterinarian to take a blood sample from the horse for the purpose of retesting.

(c) Any horse claimed from a race pursuant to N.J.A.C. 13:71-14, Claiming, shall have its blood tested for elevated titers of anti-recombinant human EPO antibody. The success-

ful claimant shall have the option to void the claim should the claimed horse test positive with the anti-recombinant human EPO antibody test.

(d) A horse which tests positive with the anti-recombinant human EPO antibody test remains subject to the requirements of this rule despite being sold, otherwise transferred, or claimed where the claimant elects not to void the claim as authorized by (c) above.

(e) The split sample testing provisions of N.J.A.C. 13:71-23.4(d), which is limited to where testing is conducted on a horse's urine sample, shall not be applicable to anti-recombinant human EPO antibody testing conducted pursuant to this section.

New Rule, R.2006 d.102, effective March 6, 2006.  
See: 37 N.J.R. 3793(a), 38 N.J.R. 1323(a).

**13:71-23.15 Out-of-competition testing (on non-race days and on race days pre-race) of race-horses for Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agents; penalties, procedures and testing costs for positive test results for Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agents, as a result of out-of-competition testing; penalties, procedures and testing costs for positive test results for Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agents, as a result of post-race blood sample testing (on race days) conducted pursuant to other provisions of this Chapter**

(a) The presence of Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agents in the racehorse is deemed adverse to the best interests of harness racing, and adverse to the best interests of the racehorse in that such condition alters its normal physiological state. Accordingly, in addition to such substances being prohibited from being present in the body of a racehorse on race day pursuant to N.J.A.C. 13:71-23.1 and 23.4, and in addition to elevated titers of anti-recombinant human EPO antibodies being prohibited from being present in the body of a racehorse on race day pursuant to N.J.A.C. 13:71-23.14, the presence of Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agents in any racehorse under the trainership of any licensed New Jersey trainer is hereby prohibited at any location and at anytime, including days where a race horse is neither entered to or scheduled to participate in a race.

(b) Racing Commission representatives may, without prior notice, appear upon off-track stabling facilities and permitted racetrack facilities subject to its jurisdiction, in furtherance of out-of-competition testing, that is, for the purpose of taking blood samples from racehorses on race days (pre-race) or on non-race days to test such samples (on the same date the sample is taken, or on a subsequent date) for the presence of

Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agents. Upon arrival at such premises and if present, the Racing Commission shall advise the facility's owner, and the trainer of the racehorse or racehorses from which blood samples are to be taken, of its purpose. Additionally, the Racing Commission State Steward may require that any New Jersey licensed trainer stabled within New Jersey, at his or her cost, produce at a permitted New Jersey racetrack (as designated by the State Steward), and within 24 hours of a State

Steward request, any racehorse under his or her custody and control for out-of-competition testing. Additionally, the State Steward may require that any New Jersey licensed trainer stabled outside this State, at his or her cost, produce at a permitted New Jersey racetrack (as designated by the State Steward), and within 48 hours of a State Steward request, any racehorse under his or her custody and control (which racehorse or racehorses competed in New Jersey in the same calendar year of the request, or which racehorse was intended