

**CHAPTER 71**

**HARNESS RACING**

**Authority**

N.J.S.A. 5:5-30.

**Source and Effective Date**

R.1995 d.103, effective January 25, 1995.  
See: 26 N.J.R. 4744(a), 27 N.J.R. 733(b).

**Executive Order No. 66(1978) Expiration Date**

Chapter 71, Harness Racing, expires on January 25, 2000.

**Chapter Historical Note**

Chapter 71, Harness Racing, was filed and became effective prior to September 1, 1969. Amendments were adopted as R.1975 d.38, effective February 24, 1975. See: 7 N.J.R. 11(b), 7 N.J.R. 170(a). Subchapter 14, Claiming, was repealed and new rules on claiming were adopted as R.1980 d.95, effective February 27, 1980. See: 11 N.J.R. 463(a), 12 N.J.R. 208(c). Subchapter 3, Appeals, was repealed and new rules on appeals were adopted as R.1982 d.109, effective April 5, 1982. As a part of R.1982 d.109, Subchapters 24, 25, 26, 27, and 28 were also adopted, effective April 5, 1982. See: 13 N.J.R. 820(a), 14 N.J.R. 347(a). Pursuant to Executive Order No. 66(1978), Subchapters 5, 9, 21, and 23 were readopted as R.1983 d.295, effective July 8, 1983. See: 15 N.J.R. 685(a), 15 N.J.R. 1256(a). Subchapters 7, 8, and 17 were readopted as R.1984 d.103, effective March 19, 1984. See: 16 N.J.R. 221(a), 16 N.J.R. 742(a), 16 N.J.R. 1360(a). Subchapter 4 expired on December 19, 1984, and subsequently was adopted as new rules by R.1984 d.621, effective January 21, 1985. See: 16 N.J.R. 2976(a), 17 N.J.R. 204(b). Subchapter 23, Stimulation and Tests, was repealed and a new Subchapter 23, Medication and Testing Procedures, was adopted as R.1985 d.58, effective February 19, 1985. See: 16 N.J.R. 3182(a), 17 N.J.R. 471(a). Pursuant to Executive Order No. 66(1978), Subchapter 14 was readopted as R.1985 d.137, effective February 25, 1985. See: 17 N.J.R. 57(a), 17 N.J.R. 710(c).

Pursuant to Executive Order No. 66(1978), Chapter 71, was readopted as R.1990 d.126, effective January 25, 1990. See: 21 N.J.R. 3861(a), 22 N.J.R. 667(a). Subchapter 29, Sulky, was adopted as R.1994 d.143, effective March 21, 1994. See: 26 N.J.R. 95(a), 26 N.J.R. 1357(a). Pursuant to Executive Order No. 66(1978), Chapter 71 was readopted as R.1995 d.103. See: Source and Effective Date.

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## SUBCHAPTER 1. GENERAL RULES

## 13:71-1.1 General provisions

(a) The rules, regulations and conditions under which all horse racing shall be conducted in the State of New Jersey are prescribed by the racing law and by the New Jersey Racing Commission.

(b) If at any time there is a conflict between the rules of the New Jersey Racing Commission and the rules of the United States Trotting Association, the rules of the Commission shall govern.

(c) The Executive Director or his or her designee shall possess the same authority of the Racing Commission stewards and judges with respect to all provisions contained in the Administrative Code governing racing in New Jersey.

Amended by R.1992 d.88, effective February 18, 1992.  
See: 23 N.J.R. 3432(a), 24 N.J.R. 647(b).  
Added (c).

## Law Review and Journal Commentaries

Horse Drugging—The New Jersey Trainer Absolute Insurer Law. Luke P. Iovine, III John E. Keefe, Jr., 1 Seton Hall J. Sport L. 61 (1991).

## Case Notes

Private harness track required to abide by the rules and regulations of the United States Trotting Association, subject to conflict with Commission rules. Marzocca v. Ferone, 186 N.J.Super. 483, 453 A.2d 228 (App.Div.1982) certification denied 91 N.J. 574, 453 A.2d 884, affirmed in part, reversed in part 93 N.J. 509, 461 A.2d 1133 (1983).

## 13:71-1.2 Owners and trainers

All owners and trainers of horses and their stable employees are subject to the laws of the State of New Jersey and the rules promulgated by its Racing Commission immediately upon acceptance and occupancy of stabling accommodations from or approved by an association or upon making entry to run on its track. Said owners and/or trainers shall furnish to the Racing Commission a badge list of all employees. Said owners, trainers and stable employees shall abide by said laws and rules and accept the decision of the stewards on any and all questions to which their authority extends, subject to their right of appeal to the Racing Commission.

## 13:71-1.3 Race participants and patrons

Every person participating in and every patron of a licensed race meeting shall abide by said laws and rules, and accept the stewards' decisions on any and all questions to which their authority extends subject to the right of appeal to the Racing Commission.

## Case Notes

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. 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).

## 13:71-1.4 Discharge of groom or attendant; notice

When an owner or trainer discharges a groom or other attendant, or when a groom or other attendant voluntarily leaves the employ of an owner or trainer, the said owner or trainer shall immediately notify the track security of such discharge of or resignation by such employee. The failure to so notify the track security shall subject the owner or trainer to a fine or suspension or both.

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

## 13:71-1.5 Notification to track security on discharge of groom

When a groom or other attendant is discharged by or voluntarily leaves the employ of an owner or trainer he shall immediately notify the track security of his discharge or resignation. The failure to so notify the track security shall subject the groom or other attendant to a fine or suspension, or both.

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

## 13:71-1.6 Language

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

## 13:71-1.7 Disturbing the peace

No person shall in any manner, or at any time, disturb the peace or make himself obnoxious on the grounds of an association.

## 13:71-1.8 Handbooks

No person shall make a handbook or a foreign book on the ground of an association nor shall any person solicit for or bet with a handbook or foreign book on the grounds of an association or fair race.

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.

**13:71-1.9 (Reserved)****13:71-1.10 Reciprocity**

Full force and effect shall be given to the denial, revocation or suspension of any license by any other racing commission or turf governing body.

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.

**13:71-1.11 Unrecognized meetings**

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.

**13:71-1.12 Suspended person or horse**

No person or horse ruled off by, or under suspension by, any recognized turf authority, trotting association included, shall be admitted to the grounds of any association.

**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.

As amended, R.1982 d.109, effective April 5, 1982.  
See: 13 N.J.R. 820(a), 14 N.J.R. 347(a).  
Amended by R.1990 d.126, effective February 20, 1990.  
See: 21 N.J.R. 3861(a), 22 N.J.R. 667(a).

Added reference to N.J.A.C. cite for appeals.

**Case Notes**

Racing judge's alleged inability to vote as he wished in penalty adjudications due to interference of state racing commission's executive director did not violate his First Amendment rights; racing judge's vote in any particular penalty case was not compelled expression on political or ideological matter, and penalty votes were not relevant to racing commission's ability to self-govern. *Latessa v. New Jersey Racing Comm'n*, C.A.3 (N.J.)1997, 113 F.3d 1313.

Imposition of penalty by State Steward proper. *Gallo v. New Jersey Racing Commission*, 6 N.J.A.R. 381 (1983).

**13:71-1.21 Financial irresponsibility**

No licensee shall accumulate unpaid obligations or default in obligations, or issue drafts or checks that are dishonored

or payment refused, or otherwise display financial irresponsibility reflecting on the track or the sport.

(c) Where a single horse, during any 12 month period, is determined to have an excessive TCO2 level in accord with N.J.A.C. 13:71-23.3A, and where the level of TCO2 has not been determined as physiologically normal for the horse, the horse shall be placed under pre-race guarded quarantine even where the horse has been transferred to a new trainer. The track association sponsoring the race shall make such pre-race guarded quarantine available, at the sole expense of the current trainer, for a length of time to be determined by the judges but in no event less than six hours prior to the start of the first race of the program.

1. Any pre-race guarded quarantine required by this subsection shall continue as to the affected horse for six months following the date of the order of quarantine. However, where during the pendency of such six-month period the horse is under the custody, care and control of the new trainer and the horse is again determined to exhibit an excessive TCO2 level in accord with N.J.A.C. 13:71-23.3A, and where the level of TCO2 has not been determined as physiologically normal for said horse, the judges shall order that the six-month pre-race guarded quarantine period for the horse be extended for a length of time which they deem appropriate. Where such an event, during any 12 month period, constitutes the second incident of any horse or horses under the custody, care and control of the current trainer of said horse exhibiting an excessive TCO2 level in accord with the procedures set forth in N.J.A.C. 13:71-23.3A, the provisions of (b) above shall apply as to that current trainer.

New Rule, R.1993 d.513, effective October 18, 1993.

See: 25 N.J.R. 3427(a), 25 N.J.R. 4751(b).

Amended by R.1997 d.127, effective March 17, 1997.

See: 29 N.J.R. 95(a), 29 N.J.R. 901(b).

Substantially amended section.

#### Case Notes

Quarantine of horse found to have violated blood gas test was justified. *McFadden v. New Jersey Racing Commission*, 97 N.J.A.R.2d (RAC) 9.

#### 13:71-23.3C Post-race blood gas testing program; punishment for failure to cooperate

In the event any owner, trainer, licensed representative of same, or any person subject to the jurisdiction of the Racing Commission, fails to cooperate in connection with the blood gas testing program authorized pursuant to N.J.A.C. 13:71-23.3A, or with regard to any procedures set forth in N.J.A.C. 13:71-23.4, or otherwise set forth in or implemented pursuant to N.J.A.C. 13:71-23.3A or 23.3B, in addition to ordering the relief set forth in N.J.A.C. 13:71-23.3A, the judges may, consistent with this chapter, impose fines or suspensions, or both, on the non-cooperating person. In determining the length of such suspension or amount of the fine, the judges may consider prior violations of N.J.A.C. 13:71-23.3A, 23.3B or this section.

New Rule, R.1993 d.513, effective October 18, 1993.

See: 25 N.J.R. 3427(a), 25 N.J.R. 4751(b).

Amended by R.1997 d.127, effective March 17, 1997.

See: 29 N.J.R. 95(a), 29 N.J.R. 901(b).

Substantially amended section.

#### 13:71-23.4 Post-race testing program

(a) No drug shall be administered or applied, internally or externally, to any horse that is to be sampled after a race until the blood and/or urine samples have been obtained unless permission from the State Veterinarian is obtained.

(b) Every horse to be tested shall be taken to a detention barn, to be supplied by the association in accordance with specifications set forth by the Commission. All blood samples shall be taken by a State Veterinarian while urine samples shall be secured by the State Veterinarian or a chemical inspector of the Commission at the direction of the State Veterinarian.

(c) During the taking of any blood and/or urine sample by the veterinarian representing the Commission, from the horse entered to race, the owner, trainer, or their designated representative shall be present and witness the procedure. The sample so taken shall be immediately sealed and tagged on the form provided by the Commission and the evidence of such sealing shall be indicated by the signature of such owner, trainer or representative. It shall be the obligation of the owner, trainer or representative to cooperate fully with the State Veterinarian in obtaining any samples which may be required and to attend and witness the taking and securing of such sample.

#### 13:71-23.5 Procedure following positive chemical analysis

(a) On receiving written notice from the official chemist that a specimen has been found "positive" for any drug or substance foreign to the natural horse, the steward shall proceed as follows:

1. He or she shall notify the State Police and authorize a search of the premises occupied by the stable involved.
2. He or she shall, as quickly as possible, notify the owner and trainer of the horse involved.
3. He or she shall, with the assistance of the State Police, conduct a thorough investigation, interviewing the trainer, assistant trainer and any other persons who may have pertinent knowledge of the circumstances involved.
4. During the progress of such investigation, the stable involved shall be permitted to race; save that the particular horse (or horses) involved shall not be entered or start until allowed to do so by the judges. In no event shall such a prohibition extend beyond seven days unless the stable has failed to provide all due cooperation to the Judges in the course of such investigation.

#### Case Notes

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. 13:71-23.17). *Maietta v. New Jersey Racing Commission*, 183 N.J.Super. 397, 444 A.2d 55 (App.Div. 1982), affirmed 93 N.J. 1, 495 A.2d 295 (1983).

### 13:71-23.6 Trainers

(a) A trainer shall be the absolute insurer of and is responsible for the condition of a horse within his care and custody.

(b) A trainer shall not enter or start a horse that has in its body any drug or substance foreign to the natural horse except as otherwise provided for in these rules and regulations.

(c) A trainer has the duty to be familiar with the medication rules of this Commission and with any drug or substances foreign to the natural horse administered to said horse at his direction or while in his care and custody.

(d) The trainer, owner, veterinarian, groom or other person charged with the custody, care and responsibility of a horse are all obligated to protect and guard the horse against administration of any drug or substances foreign to the natural horse, except as otherwise provided for in these rules and regulations by any unauthorized individual, and the administration of any unauthorized drug or substance foreign to the natural horse by any person.

#### Case Notes

District court would abstain from reaching merits of harness race-horse trainers' applications for stays of orders. *Bongiorno v. Lalomia*, D.N.J.1994, 851 F.Supp. 606, affirmed 39 F.3d 1168.

Fines and suspension of licenses and privileges for extended periods ranging from 30 months to 66 months, based on findings that trainers' horses had tested positive for drugs were not arbitrary, capricious, unreasonable; principles of "trainer responsibility" and "no medication" were clearly established in law and commission had authority to protect integrity of horse racing. *New Jersey Racing Com'n v. Elliot*, 290 N.J.Super. 140, 675 A.2d 243 (A.D.1996).

Trainer who set own period of suspension without proper authorization must serve additional suspension. *Riegle v. New Jersey Racing Commission*, 97 N.J.A.R.2d (RAC) 2.

Licenses of four trainers whose horses tested positive for fenspiride were suspended for 18 months for first occurrence and 12 months for each subsequent occurrence. *New Jersey Racing Commission v. Elliot*, 96 N.J.A.R.2d (RAC) 31.

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).

Horse trainers were properly suspended for unknowingly giving horses feed containing caffeine. *Capone v. New Jersey Racing Commission*, 96 N.J.A.R.2d (RAC) 22.

Horse trainer; race horses; suspension. *DeVitis v. New Jersey Racing Commission*, 94 N.J.A.R.2d (RAC) 55.

Trainer suspended after the horse was discovered to have a foreign substance in its system. *New Jersey Racing Commission v. Janis Gianforte*, 94 N.J.A.R.2d (RAC) 49.

Trainer violated responsibility rule; illegal drug. *New Jersey Racing Commission v. Rubin*, 94 N.J.A.R.2d (RAC) 17.

Post-race test finding of buprenorphine; trainer suspended. *Caltagione v. New Jersey Racing Commission*, 92 N.J.A.R.2d (RAC) 7.

### 13:71-23.7 Penalties

(a) Should the judges determine that any person or persons have violated any section of this subchapter, they may punish the offending party consistent with the penalties provided for in these rules and regulations.

(b) In addition thereto, the judges may penalize the owner of any horse, or any entry of which said horse is a part, that has started in any race with any drug or substance foreign to the natural horse in its body by disqualification and denial of any part of the purse with redistribution of purse moneys as in the case of a disqualification.

(c) Any individual suspended or disciplined in any fashion for a second or subsequent violation of N.J.A.C. 13:71-23.6(a), (b), (d) or any comparable rule of any other racing commission or turf governing body may be deemed a repetitive offender. A second or subsequent violation of N.J.A.C. 13:71-23.6 may constitute grounds for further disciplinary action by the Commission.

(d) Horses owned wholly or in part by persons suspended for violation of N.J.A.C. 13:71-23.6(a), (b) or (d) are ineligible to start during the period of such suspension, unless sold to a bona fide purchaser. Horses trained by a person suspended for such a violation, wherein the trainer does not have an ownership interest, are automatically eligible to start when placed in the hands of a licensed trainer approved by the judges.

(See N.J.A.C. 13:71-3 for rules concerning appeals.)

### 13:71-23.8 Administering medication to respiratory bleeders; standards for the administration of phenylbutazone

(a) The stewards may permit the administration of medication to control respiratory bleeding in animals that:

1. At any time have received a comprehensive cardiopulmonary examination at an approved equine hospital or school of veterinary medicine and as a result thereof are certified as bleeders and therefore are in need of medication in order to race; or

2. Are observed in New Jersey to bleed during the running or driving of a workout or race at a duly licensed New Jersey racetrack, or in the detention barn following such workout or race by a State or Associate State Veterinarian or by a licensed veterinarian at any time on the grounds of a racetrack and have been placed on a veterinarian's list for at least 10 days; or

3. Have been certified as respiratory bleeders in other racing jurisdictions by a veterinarian employed by that jurisdiction's regulatory body or have been placed on another racing jurisdiction's respiratory bleeder's list.

(b) All horses that are placed on the veterinarian's list shall be required to be treated by a licensed practicing veterinarian in the stall assigned to that horse on the grounds of the Racing Association or in the receiving barn. During this period the horse shall be under the care and custody of a groom or caretaker appointed by the trainer. Furosemide, a diuretic medication that is intended to control respiratory bleeding, shall be administered by a licensed practicing veterinarian and shall be limited to an intravenous dose of 0.50 milligrams (mg) per pound of body weight (1.00 mg per kilogram) or 500 milligrams (10 cubic centimeters (cc)) in a 1,000 pound horse at least four hours prior to race time. Said practicing veterinarian shall make daily reports of all said treatments and file said reports with the State Veterinarian each day.

(c) Post-race urine and blood samples may be taken by or under the supervision of the State Veterinarian from all horses treated with Lasix® (furosemide) to control respiratory bleeding pursuant to the requirements set forth above.

In the event a post-race analysis of a blood sample reveals that the concentration of furosemide exceeds a level of 50 nanograms per milliliter of plasma (50 ng/ml) the trainer and/or the practicing veterinarian shall be liable to the penalties as set forth in (e) below.

(d) Any horse having bled in any jurisdiction shall be placed on the veterinarian's list for bleeding and must remain on the list for 10 calendar days, a second time bleeder must remain on the respiratory list for 30 days, and a third time bleeder must remain on the respiratory list for 90 days. A bleeder in the above categories is automatically released from the veterinarian's list after these dates; however, a horse which evidences respiratory bleeding a fourth time is barred from further racing in New Jersey.

(e) Should the stewards determine that any person or persons have violated (c) above, they shall punish the offending party as follows: