

3. In the event post-race testing determines that any horse carried in its body on the day of the race phenylbutazone in a quantity equal to or exceeding 5.0 micrograms per milliliter, the trainer and any other responsible party shall be subject to the following penalties regardless of whether or not the same horse is involved:

- i. First violation of N.J.A.C. 13:71-23.8(g)3—\$500.00 fine, loss of purse and 15 day suspension; and
- ii. Second or subsequent violations of N.J.A.C. 13:71-23.8(g)3—such fines, suspensions and/or other penalties allowed by this chapter.

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).

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

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.

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).

SUBCHAPTER 24. AUTHORIZED AGENTS**13:71-24.1 License**

Each authorized agent must obtain a license from the Racing Commission.

13:71-24.2 License application

Application for a license must be filed for each owner represented.

13:71-24.3 Powers of attorney

If the written instrument is a power of attorney, it shall be filed permanently with the Racing Secretary. If, however, the powers are properly delegated by the owner on the application form for a license, then said application shall be in duplicate and one copy filed permanently with the Racing Secretary.

13:71-24.4 Changes

Any change must be in writing and filed as above provided.

13:71-24.5 License fees

The fee for each license shall be \$50.00 as set forth in N.J.A.C. 13:71-7.1. If an agent represents more than one owner, a separate written instrument shall be filed for each owner and the fee paid in each case.

Amended by R.1990 d.126, effective February 20, 1990.

See: 21 N.J.R. 3861(a), 22 N.J.R. 667(a).

Fee increased from \$10.00 to \$25.00.

Amended by R.1993 d.52, effective January 19, 1993.

See: 24 N.J.R. 4023(a), 25 N.J.R. 314(b).

Revised text.

13:71-24.6 Owner's revocations

Owner's revocations must be filed in writing with the Racing Commission and with the Racing Secretary.

13:71-24.7 Appointment of subagents

An authorized agent may appoint a subagent only when authorized to do so by the above written instrument and, to be effective, notice of such appointment must be given immediately in writing to the Racing Commission and the Racing Secretary. Application for a license must be filed for each subagency so created.

SUBCHAPTER 25. VENDORS

13:71-25.1 Licenses

All persons, including the employees and agents thereof, who engage in the profession or business of selling, at retail or wholesale, or otherwise disposing thereof, of any kind of merchandise, equipment, drugs or medication for animals or humans, or pharmaceutical horse food or nutrient of any kind, providing that such substances, or the sale or disposition thereof is not otherwise prohibited by law, shall be licensed by and be subject to the jurisdiction of the Racing Commission. All applicants for vendor license shall be recommended by the security officer of the track where application for license is made.

13:71-25.2 Labelling drugs and medication

All drugs, medications, pharmaceutical products and any other substances of a similar nature possessed or used within the grounds of a racing association shall at all times bear appropriate labelling displaying the contents thereof.

SUBCHAPTER 26. ILLEGAL PRACTICES

13:71-26.1 Bribes, gifts and gratuities

No person shall give, offer or promise, directly or indirectly, either in his own behalf or in behalf of another, any bribe, gift or gratuity in any form, for the purpose of influencing the result of a race, or which would tend to do so, to any person.

13:71-26.2 Offers of bribes

No person shall accept, or offer to accept on his own behalf or on behalf of another a bribe, gift or gratuity in any form, to influence the result of a race or which would tend to do so. Failure to report such offer of a bribe is a misdemeanor punishable by a fine not exceeding \$1,000, imprisonment for three years, or both.

13:71-26.3 Knowledge of violations

Any person employed or engaged in racing who shall come into possession of knowledge concerning any violation of the rules of racing or any violation of law in connection with the running of a race shall immediately report the information to the stewards of the meeting for investigation and such action as the case may warrant.

13:71-26.4 False or misleading statements

No person shall make false or misleading statements to the steward or judges, in the course of an investigation.

13:71-26.5 Conspiracies

No person shall conspire with any other person for the commission of, or connive with any other person in any corrupt or fraudulent practice in relation to racing, nor shall he commit such an act on his own behalf.

Case Notes

Horse trainer's license was properly suspended for four years for serving as "front" for suspended trainer. *Rubin v. New Jersey Racing Commission*, 96 N.J.A.R.2d (RAC) 44.

13:71-26.6 Soliciting bets

No person shall solicit bets on the grounds of an association.

13:71-26.7 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. Failure to cooperate will subject the person or persons involved to a fine, suspension or both.

13:71-26.8 Fraud; disqualification

When a horse is disqualified and there is evidence of fraud or attempted fraud, any other horse in the race owned or controlled by the same interest or trained by the same trainer also may be disqualified.

13:71-26.9 Suspension pending outcome of indictment

(a) A licensee may be suspended immediately when the licensee is indicted in this State for a crime of the first, second, third or fourth degree or is indicted for a similar crime under Federal law or the law of another state, or Province of Canada law if:

1. The charge or charges arise from activity or activities occurring on the grounds of a race association or a licensed farm; or
2. The charge or charges are directly related to the racing industry whether in this State or another jurisdiction.

(b) Prior to a suspension under (a) above becoming effective, the licensee must first be apprised in writing of why an immediate suspension is sought, the charges and the general evidence in support of the charges. This notice may be given by personal service or by regular mail or by certified mail, return receipt requested, to the last address for the licensee on record with the Commission.

(c) The licensee may request a hearing with a representative of the Commission within 10 days of the date of the written notice of suspension. If no request is made within this time, or such additional time as agreed to by a representative of the Commission or as provided in a negotiated agreement, the suspension issued pursuant to this section shall continue until disposition of the criminal indictment.

(d) A suspension pursuant to this section shall not extend beyond the disposition of the criminal complaint or indictment; provided, that where a licensee is convicted of a charge described in (a) above, such suspension shall remain in effect pending further disciplinary action by the Commission.

(e) Where any licensee is suspended pursuant to this section, said penalty may be appealed to the Commission and a hearing requested.

(f) The hearings before both the Commission's representative and the Commission itself shall be de novo proceedings.

(g) Where the suspension is immediate under (a) above, the licensee may seek a stay of said suspension pending a resolution of the charge or charges and/or the Final Decision of the Commission. Any such request shall be in writing and shall be addressed to the Executive Director (or his or her designee) and the Commission.

1. Such a request may be denied by the Commission, Executive Director, or his or her designee, where to grant the same would be adverse to the best interests of racing or inimical to the public in preserving the integrity of the sport and in preserving public confidence in the sport.

New Rule, R.1991 d.265, effective May 20, 1991.
See: 23 N.J.R. 676(a), 23 N.J.R. 1685(a).

SUBCHAPTER 27. MUTUELS**13:71-27.1 Supervisor of Mutuels**

(a) The Supervisor of Mutuels shall be a Certified Public Accountant of the State of New Jersey. He shall be appointed by the Commission and a rate of compensation set by the Commission that is to be paid weekly by the track association where he serves.

(b) The Supervisor of Mutuels shall be represented daily in the mutuel department supervising its operation, determining calculations, overpays and underpays and directing the necessary adjustments to the race totals.

(c) He shall investigate all tote and other discrepancies and shall see that corrections are made where warranted.

(d) He shall check the machine computation of all daily double, exacta and any other multiple wagering pool.

(e) He shall review all necessary computer sheets and have the State appointed verifiers test check the machine calculations of the pay out, breaks, commission and prove each race pool.

(f) He shall prepare a daily summary result from the parimutuel operations and submit his findings to the Racing Commission. He shall also prepare a seven day financial report and a seven day comparative statistic report for submission to the Commission.

(g) He shall, on a daily basis, reconcile the parimutuel daily sales and the track association treasurer's statement with the Racing Commission daily summary of results from parimutuel wagering.

(h) He shall check on the sellers and cashiers employed by the mutuel department to determine if they are over or short. Any material overages or shortages shall be investigated and reviewed with the director of mutuels and a full report made to the Racing Commission.

13:71-27.2 Post-time

Post-time of each race shall be set by the manager of the parimutuel department, and shall not be changed after being posted on the odds-board without permission of the steward.