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(b) All persons licensed by the Commission and all employees of the racing associations and/or employees of contractors doing work for the track associations will be required to be fingerprinted and photographed at the discretion of the Commission. The applicant must pay for the cost of the fingerprints and card checks. The Commission will direct the fee, which will be consistent with the charge set by the reviewing agency for the type of inquiry requested; for example, State, Federal, State and Federal, name check. Owners who, because of extenuating circumstances, cannot come into New Jersey to be fingerprinted and photographed during a racing year, will be issued conditional licenses only and will not be permitted access to the stable area or paddock at any New Jersey track until photographed and fingerprinted by the Racing Commission. Holders of a conditional license will not be eligible for passes at any of the tracks in New Jersey.

Amended by R.1977 d.8, effective January 17, 1977.
See: 8 N.J.R. 531(c), 9 N.J.R. 94(d).
Amended by R.1979, d.14, effective April 12, 1979.
See: 11 N.J.R. 21(b), 11 N.J.R. 258(a).
Amended by R.1983 d.104, effective April 4, 1983, operative January 1, 1984.
See: 14 N.J.R. 1445(a), 15 N.J.R. 554(a).
Fees increased and (b) added.
Amended by R.1985 d.640, effective December 16, 1985 (operative January 1, 1986).
See: 17 N.J.R. 2364(a), 17 N.J.R. 2996(b).
(a)12 added; (b) substantially amended.
Amended by R.1990 d.126, effective February 20, 1990.
See: 21 N.J.R. 3861(a), 22 N.J.R. 667(a).
"Fingerprints and photographs" added to tagline.
Amended by R.1993 d.52, effective January 19, 1993.
See: 24 N.J.R. 4023(a), 25 N.J.R. 314(b).
Revised (a).

13:71-7.2 False or misleading statements

Any person making any false, untrue or misleading statement on an application for a license or registration or in a written or oral examination in connection with such an application may be disciplined as provided for in this chapter.

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

13:71-7.3 Refusal to issue or renew license

The Commission may refuse to issue or renew a license or may suspend or revoke a license issued pursuant to this section if it shall find that the applicant, or any person who is a partner, agent, employee or associate of the applicant, has been convicted of a crime in any jurisdiction, or is associating or consorting with any person or persons who has been convicted of a crime or crimes in any jurisdiction or jurisdictions, or is consorting or associating with, or has consorted with bookmakers, touts or persons of similar pursuits, or has himself engaged in similar pursuits, or is financially irresponsible, or has been guilty of or attempted any fraud or misrepresentation in connection with racing, breeding or otherwise, or has violated or attempted to violate any law with respect to racing in any jurisdiction or any rule, regulation or order of

the Commission, or shall have violated any rule of racing which shall have been approved or adopted by the Commission, or has been guilty of or engaged in similar related or like practices.

Case Notes

Harness rules express concern for an affinity between any applicant for licensure and another person convicted of a crime, entirely apart from the persons' marital relationship. *Niglio v. New Jersey Racing Commission*, 158 N.J.Super. 182, 385 A.2d 925 (App.Div.1978).

Arrest record with no convictions may not be considered by the Commission in assessing the moral character of an owner/licensee (citing former N.J.A.C. 13:71-4.2). *Costanzo v. New Jersey Racing Commission*, 126 N.J.Super. 187, 313 A.2d 618 (App.Div.1974).

Initial Decision (2007 N.J. AGEN LEXIS 191) adopted, which concluded that applicant for standardbred owner license submitted sufficient evidence of good moral character as required by N.J.A.C. 13:71-7.31 notwithstanding prior conviction for promoting gambling. Applicant testified that his previous gambling (record for which had been expunged) was limited to placing football bets for co-workers 17 years prior, and that he was now a 43-year-old married father of twins who owned his own business and regularly attended church. *Devine v. N.J. Racing Comm'n*, OAL Dkt. No. RAC 4449-05, Final Decision (June 25, 2007).

Obstruction of justice and perjury conviction warranted denial of driver/trainer license application despite rehabilitation. *Bonacorsa v. New Jersey Racing Commission*, 93 N.J.A.R.2d (RAC) 14.

Commission's denial of harness driver's license not arbitrary, capricious or unreasonable; applicant's burden to demonstrate complete qualification for licensure not met; other licensing decisions not relevant to petitioner's application since decisions are based on individual records, not comparative tests. *Primeau v. New Jersey Racing Commission*, 8 N.J.A.R. 509 (1985).

13:71-7.4 Age requirements

No application for a license will be considered for or granted to a person under 16 years of age.

13:71-7.5 Items requiring registration

(a) The following must be registered with the Racing Commission annually and the fee payable for such registration shall be as follows:

1. Each stable name must be duly registered with the Racing Commission. The fee shall be \$50.00.
2. Corporate stable names must be registered with the Commission. The initial fee shall be \$50.00 and renewals thereafter shall have a fee of \$50.00.
3. Multiple ownership initial registration with the Commission shall be \$50.00 and renewals thereafter shall also have a fee of \$50.00.
4. Partnerships (two individuals or any combination of entities and/or individuals) shall be registered with the Commission.

Amended by R.1979 d.144, effective April 12, 1979.
See: 11 N.J.R. 21(b), 11 N.J.R. 258(a).
Amended by R.1982 d.109, effective April 5, 1982.
See: 13 N.J.R. 820(a), 14 N.J.R. 347(a).
(a) 2 and 3 added.

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

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

Revised (a) and (a)1; added new (a)4.

Amended by R.1998 d.170, effective April 6, 1998 (operative January 1, 1999).

See: 30 N.J.R. 24(a), 30 N.J.R. 1298(b).

In (a)4, deleted a \$25 annual fee.

13:71-7.6 Fees

The fee shall accompany each application for licenses and/or registration. All licenses and/or registration expire December 31 of the year of issue.

13:71-7.7 Applications

(a) All applications for owner, driver and trainer license and registration of stable name and multiple owner registration must be examined by the steward for and on behalf of the New Jersey Racing Commission. The steward shall ascertain if the applicant is qualified as to ability and integrity, and shall report his findings to the New Jersey Racing Commission.

1. In considering each application for a license, the steward may require the applicant, as well as the applicant's endorsers, to appear before him.

2. The burden shall be upon the applicant to show that he, she or it is qualified in every respect to receive the license applied for.

3. Ability, as well as integrity, must be clearly shown by the applicant in order to receive the steward's recommendation to the New Jersey Racing Commission for the granting of the license.

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.1985 d.138, effective March 18, 1985.

See: 17 N.J.R. 57(b), 17 N.J.R. 711(a).

Added (a)1.-3.

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

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

Grammatical correction in (a).

Case Notes

Initial Decision (2006 N.J. AGEN LEXIS 819) adopted, which concluded that denial of owner/driver/trainer license application was appropriate where applicant had been in violation of several regulations since the revocation of his licensure in 1993, including transporting race horses, working at an unlicensed farm and training facility, and, most notably, training and racing horses under his sister's name. *Parolari v. N.J. Racing Comm'n*, OAL Dkt. No. RAC 8920-05 (RAC 6170-03 On Remand), Final Decision (November 20, 2006).

Commission's denial of harness driver's license not arbitrary, capricious or unreasonable; applicant's burden to demonstrate complete qualification for licensure not met; other licensing decisions not relevant to petitioner's application since decisions are based on individual records, not comparative tests (citing former regulation). *Primeau v. New Jersey Racing Commission*, 8 N.J.A.R. 509 (1985).

13:71-7.8 Liable for all penalties

All persons listed in a registered stable shall be liable for all penalties against horses raced under such stable name. If one of the persons listed under such stable name is suspended, all the horses in such stable shall be included.

13:71-7.9 Changes in identities

Changes in identities must be reported immediately and approval obtained from the Commission.

13:71-7.10 Notice to the Racing Commission

A person who has registered under a stable name may at any time cancel it after giving written notice to the Racing Commission.

13:71-7.11 Changing of stable name

A stable name may be changed at any time by registering a new stable name and by paying the fee required in N.J.A.C. 13:71-7.5.

13:71-7.12 Existing stable name

A person cannot register as his stable name one which has been registered by any other person with any association conducting a recognized meeting.

13:71-7.13 Registered stable; member

A person may be registered in more than one stable name. No person, however, will be permitted to enter more than one horse, in which he has an interest, in any one race without said horse being coupled as an entry.

As amended, R.1977 d.8, effective January 17, 1977.

See: 8 N.J.R. 531(c), 9 N.J.R. 94(d).

13:71-7.14 Distinguished name

A stable name shall be plainly distinguishable from that of another duly registered stable name.

13:71-7.15 Transfer of name

With the consent of the Racing Commission a stable name may be transferred. The fee for a transfer shall be \$10.00 and a new application must be made.

13:71-7.16 Corporations

(a) No license as an owner shall be granted to a corporation or to the lessee or lessor of any corporation unless all corporate officers, members of the Board of Directors, managers and stockholders directly or indirectly owning five percent or more of said corporation's issued stock have been licensed.

(b) Each such person must file an application for an owner's license.

(c) Any and all changes in either the corporate structure or the respective interest of stockholders as described in (a) above must be promptly filed with the Commission.

(d) All corporations shall race under a stable name approved by the Commission and shall be required to file application for same on a form prescribed by the Commission.

As amended, R.1982 d.109, effective April 5, 1982.

See: 13 N.J.R. 820(a), 14 N.J.R. 347(a).

(a) deleted and (a) through (d) added.

13:71-7.17 Multiple ownership

Each and every multiple ownership must be registered with the Racing Commission. All multiple ownerships with the exception of partnerships wherein no more than two persons are involved shall race in a multiple ownership stable name. No license shall be granted to any partnership, syndicate or other form of multiple ownership or to the lessee of any such entity excluding corporations wherein the number of persons having a beneficial interest therein exceeds 35. Each and every partnership must be registered with the Commission.

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

13:71-7.18 Multiple ownership; applications

(a) Multiple ownership applications shall, among other things, set forth the following:

1. The name and address of each and every person having any interest in the horse or horses involved;
2. The relative proportions of such interests;
3. To whom the winnings are payable;
4. In whose name the horse or horses shall race;
5. With whom the power of entry and declaration shall rest;
6. The terms of any contingency, lease or any other arrangement.

13:71-7.19 Alteration in a multiple ownership

Any alteration in a recorded multiple ownership registration, to be effective, must be reported in writing to the Racing Commission and be signed by all the partners.

13:71-7.20 Liability

All the parties to any multiple ownership shall be jointly and severally liable for all stakes, forfeits and other obligations.

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

13:71-7.21 Employment application blank

(a) Every person employed at any harness race track or by any concessionaire thereof must fill out an employment or license application, which must contain a statement of permanent residence and the following questions: Have you ever been convicted of a crime? ... ruled off? ... set down for other than the usual driving infractions? ... Suspended or otherwise debarred from participating in racing by any racing organization, commission of other recognized turf authority in the United States or elsewhere? ... Has an indictment or information been returned or complaint made against you by the United States or any state, charging sale use of possession or narcotics? ... State full details.

(b) All such employment application records must be kept by any harness race track association or by any concessionaire for a period of two years, and must be made available for inspection by the New Jersey Racing Commission, if so requested.

13:71-7.22 Nonresident defined

(a) Any person who has voted within two years in any state other than New Jersey since casting his last vote in

New Jersey, or who has made representation within two years that he is a citizen or resident of a state other than New Jersey shall be considered not a resident of New Jersey.

(b) The Commission shall make decision of the citizenship and residence of each employee under the laws of the State of New Jersey and the rules, regulations and conditions of the Commission which shall be binding upon the employees and the race track association.

Case Notes

Finding that no domiciliary ownership or control requirements were in existence on day of race; horse not disqualified from "owned and bred" race; owner was New Jersey domiciliary on race date (also cited as N.J.A.C. 13:71-7.11). *Bunny Stables v. New Jersey Racing Commission*, 3 N.J.A.R. 148 (1981).

13:71-7.23 (Reserved)

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

13:71-7.24 Loss of identification card

All persons who have in their possession an identification card issued by the New Jersey Racing Commission and lose same are subject to a fine of not less than \$2.00 or more than \$10.00, to be paid before a duplicate card can be issued.

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

Maximum and minimum fines established, change from fine of \$1.00.

13:71-7.25 Application for driver's license

(a) Every person desiring to drive a harness horse at a race meeting licensed by the Commission shall be required to obtain a license from the Commission. Such application shall be on forms provided by the Commission; applications may be filed at any Commission office. Such license shall be presented to the clerk of the course before driving.

(b) Every applicant for a license to drive a harness horse at a race meeting licensed by the Commission shall, in addition to any other requirements mentioned herein:

1. Be at least 16 years of age;
2. Submit evidence of good moral character;
3. Have a minimum of 20-40 vision in one eye, corrected, according to certification by a licensed optometrist, or ophthalmologist. All drivers must be examined at least biannually by one of the aforementioned doctors. A proof of such examination must be submitted with the license application;
4. Furnish a completed application form;
5. When requested, submit evidence of physical and mental ability and/or submit to a physical examination;

6. When requested, submit to a written examination at a designated time and place to determine his qualification to drive and his knowledge of racing and the rules;

7. Submit evidence of ability to drive in a race and, if a new applicant, this must include the equivalent of one year's experience.

(c) Any applicant who has complied with the requirements of (a) and (b) above, may be eligible for a license in New Jersey in the following categories:

1. (F)(Fair) A license valid for fair meetings. Drivers holding a license valid for fairs only who have driven at fairs must demonstrate an ability to drive satisfactorily before they will be granted a (Q) license valid for qualifying races.

2. (Q)(Qualifying) A license valid for fairs and a license for qualifying races at pari-mutuel meetings with the approval of the Presiding Judge. The Presiding Judge shall make a report to the United States Trotting Association relating to the performance of such a driver in a qualifying race. Drivers holding a qualifying license must demonstrate an ability to drive satisfactorily before a Presiding Judge before they will be granted a (P) Provisional license.

3. (P)(Provisional) A license valid for fairs and for pari-mutuel meetings subject to satisfactory performance and with the permission of the Racing Association. In cases where drivers are Provisional (P), it shall be noted on the program. Drivers holding a provisional license will not be considered for advancement to an "A" (full) license until he or she has qualified in one of the three following categories:

i. Had at least one year's driving experience while holding a "P" (Provisional) license plus 25 satisfactory pari-mutuel starts in the calendar year prior to application;

ii. Or had less than one year's driving experience while holding a "P" (Provisional) license but with at least 50 satisfactory pari-mutuel starts and the written approval from a licensed pari-mutuel Presiding Judge.

iii. Or made 25 satisfactory starts at extended pari-mutuel or Grand Circuit meetings in the two calendar year period preceding date of application provided he or she has had at least 50 satisfactory fair starts.

iv. In all cases, an individual must have demonstrated professional competence at all times and a Presiding Judge, licensed by a Racing Commission, must have submitted a satisfactory written report certifying to such performance.

4. (A) (Full) A full license for all meetings.

5. (V) (Probationary) A Probationary license indicating that the driver has been guilty of rule violations and has been warned against repetition of such violations.

(d) In the event any person is involved in an accident on the track, the Commission may order such person to submit to a physical examination and such examination must be completed within 30 days from such request, or his license may be suspended until compliance therewith.

Amended by R.1976 d.125, effective April 22, 1976.

See: 8 N.J.R. 47(b), 8 N.J.R. 308(a).

Amended by R.1984 d.214, effective June 4, 1984.

See: 16 N.J.R. 691(a), 16 N.J.R. 1361(b).

Section substantially amended.

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

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

(a) deleted.

13:71-7.26 Requirements; farms or licensed tracks

(a) No horse may start in any race wherein pari-mutuel wagering is conducted unless stabled on the grounds of a racing association licensed by the Commission or at a farm or training facility licensed by the Commission. Nothing in this rule shall prohibit any horse stabled outside the State of New Jersey from vanning to any racing association to start.

(b) A license shall not be issued to any farm or training center not in compliance with the following requirements:

1. All box stalls shall be properly ventilated and measure approximately 10 feet by 10 feet or larger.

2. Arrangements for the disposal of manure and other refuse shall be made in compliance with appropriate State and municipal health codes and/or ordinances.

3. Adequate spraying and/or fogging equipment must be available.

4. Any farm or training center that is placed under quarantine by the New Jersey Department of Agriculture shall have their license immediately suspended. Any facility whose license is so suspended, shall be afforded the right of appeal as provided for in N.J.A.C. 13:71-3.

(c) Any farm or training center making application for licensure as an off-track stabling facility shall pay a \$50.00 annual license fee and be liable to inspection by the employees of the Commission and shall be required to provide unrestricted access to all stabling facilities to the employees and agent of the Commission upon demand.

(d) Any horse in training or entered to start stabled on such a farm or training center must be under the care and custody of a licensed trainer. It shall be the responsibility of the trainer to insure that only individuals licensed by the Commission are employed in any capacity of caretaker, groom or other attendant with respect to the care-custody and training of such a horse. Nothing in this section shall be deemed to apply to brood mares, foals, weanlings, yearlings, stallions or other horses not in training.

(e) It shall be the responsibility of the farm manager or training center manager to complete and file all reports required of him by the Commission. It shall similarly be the responsibility of the trainer to complete and file all reports required of him by the Commission, including, but not limited to, the Equine Fatality Report (see: N.J.A.C. 13:71-20.24).

(f) Failure to comply with the requirements in this section shall subject the offending party to the penalties provided for in N.J.A.C. 13:71-2.3. Further, violation of this section may subject the offending party to suspension, revocation or denial of the farm license and/or declaration of ineligibility for stables or horses involved.

New Rule, R.1984 d.214, effective June 4, 1984.

See: 16 N.J.R. 691(a), 16 N.J.R. 1361(b).

Repealed.

New Rule, R.1985 d.637, effective December 16, 1985 (operative January 1, 1986).

See: 17 N.J.R. 1393(b), 17 N.J.R. 2996(c).

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

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

Revised (c).

Petition for Rulemaking.

See: 35 N.J.R. 1741(a), 1741(b), 2956(a).

Case Notes

Initial Decision (2006 N.J. AGEN LEXIS 819) adopted, which concluded that once applicant hitched the horse trailer containing race horses to his pick-up truck, he became responsible for their custody and care. The fact that licensees were passengers in the pick-up truck did not in any way excuse applicant from the requirement of being licensed; nor was he somehow excused from this requirement because he parked the trailer in a lot across the street from raceway. *Parolari v. N.J. Racing Comm'n*, OAL Dkt. No. RAC 8920-05 (RAC 6170-03 On Remand), Final Decision (November 20, 2006).

13:71-7.27 Trainers; application for license

An applicant for a license as trainer must be at least 18 years of age and satisfy the Commission that he possesses the necessary qualifications, both mental and physical, to perform the duties required. Elements to be considered, among others, shall be character, reputation, temperament, experience, knowledge of the rules of racing and of the duties of a trainer in the preparation, training, entering and managing the horses for racing. The system of qualification employed by the United States Trotting Association may be accepted as evidence of the necessary experience.

Case Notes

Hartman v. N.J. Racing Comm'n, 352 N.J. Super. 490 (App. Div. 2002), recognized that an owner could be subject to discipline if the owner knew or should have that a trainer whom the owner employed was unlicensed. Where Racing Commission charged 48 licensees with violations arising out of their employment of an unlicensed trainer, the issue of whether the licensees knew or should have known involved a factual issue that was not addressed by the tribunal below, making summary judgment on the issue inappropriate (withdrawing charges, however, on other grounds). *N.J. Racing Comm'n v. Keeping*, OAL Dkt. No. RAC 8278-00, 2005 N.J. AGEN LEXIS 1332, Final Decision (September 19, 2005).

13:71-7.28 Grooms; application for license

An applicant for a license as a groom must satisfy the commission that he possesses the necessary qualifications, both mental and physical, to perform the duties required. Elements to be considered, among others, shall be character, reputation, temperament, experience, knowledge of the rules of racing and of the duties of a groom. Applicants between the ages of 16 and 18 years of age must submit New Jersey "working papers" together with their application. No license shall be issued to applicants under 16 years of age.

13:71-7.29 Suspension or revocation of drivers—trainers or grooms licenses

(a) The license of any driver, trainer or groom may be suspended, revoked or money fine may be imposed, at any time for:

1. Failure to obey the instructions of a racing official;
2. Failure to drive in a race when programmed, unless excused by the presiding judge;
3. Appearing in the paddock in an unfit condition to perform his duties;
4. Fighting;
5. Assault upon any other person;
6. Offensive or profane language;
7. Smoking while on the race track in silks and during actual racing hours;
8. Warming up a horse without silks at any time after the admission gates are open;
9. Disturbing the peace;
10. Refusal to take a breathalyzer test when directed by the presiding judge;
11. Refusal, when requested by the commission, to submit evidence of physical and mental ability and/or to submit to a physical examination;
12. Failure to participate in post parade, unless specifically excused by presiding judge;
13. Any other act or conduct detrimental to the sport;
14. Violation of any rule of the commission;
15. Falsifying or misrepresenting answers on the application for license.
16. The length of suspension of a driver may be increased up to and including an indefinite suspension by the New Jersey Racing Commission if said driver is guilty of the same infractions of the rules of racing two times or more during any calendar year.

Amended by R.1976 d.125, effective April 22, 1976.

See: 8 N.J.R. 47(b), 8 N.J.R. 308(a).

Case Notes

Trainer's offensive behavior warrants suspension and fine. *Milici v. New Jersey Racing Commission*, 97 N.J.A.R.2d (RAC) 10.

Suspended trainer was denied a new trainer's license. *Temming v. New Jersey Racing Commission*, 94 N.J.A.R.2d (RAC) 51.

13:71-7.30 Owners' application for license

(a) Every owner desiring to enter a harness horse at a race meeting licensed by the commission shall be required to obtain a license from the commission.

1. No person shall have more than one trainer, training his horse or horses in which he has any interest, at any one track in New Jersey, at the same time, without the written consent of the New Jersey Racing Commission. When a horse is shipped in for one particular race, this ruling may be waived in writing by the New Jersey Racing Commission or its representatives.

(b) Such application shall be on forms provided by the commission. "Owner" includes sole owner, part owner or lessee of a horse.

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

13:71-7.31 Qualification for owner's license

(a) Every applicant for a license as an owner in addition to any other requirements mentioned herein shall:

1. Be at least 18 years of age unless a parent or legal guardian expressly assumes responsibility for an applicant who is under 18 years of age;
2. Submit evidence of good moral character; and
3. Furnish a completed application form.

(b) Where a horse is owned jointly by two or more parties, all parties must comply with (a)1, 2 and 3 above.

(c) Where a horse is owned by a corporation, all officers, directors and persons owning more than five percent of the capital stock must comply with (a)1, 2 and 3 above.

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

At (c) change from 10 percent ownership to 5 percent ownership.

Case Notes

Initial Decision (2007 N.J. AGEN LEXIS 191) adopted, which concluded that applicant for standardbred owner license submitted sufficient evidence of good moral character as required by N.J.A.C. 13:71-7.31 notwithstanding prior conviction for promoting gambling. Applicant testified that his previous gambling (record for which had been expunged) was limited to placing football bets for co-workers 17 years prior, and that he was now a 43-year-old married father of twins who owned his own business and regularly attended church. *Devine v. N.J. Racing Comm'n*, OAL Dkt. No. RAC 4449-05, Final Decision (June 25, 2007).

13:71-7.32 Suspension or revocation of owner's license

(a) The license of any owner may be suspended, revoked or a money fine may be imposed for:

1. Failure to obey the instructions of a racing official;
2. Failure to race his horse when programmed, unless excused by the presiding judge;
3. Misconduct or acts detrimental to the sport;
4. Violation of any rule of the Commission;
5. Falsifying or misrepresenting answers on an application for an owner's license.

Case Notes

Racing Commission has the authority to issue a suspension regardless of if the trainer's license has expired. *Colasanti v. N.J. Racing Comm'n*, OAL Dkt. No. RAC 0716-04, 2005 N.J. AGEN LEXIS 1331, Final Decision (November 21, 2005).

Suspension of trainer's licensure was proper where trainer violated N.J.A.C. 13:71-7.32(a)(5) by falsely indicating on his application that he had never been arrested or convicted of a crime. *Colasanti v. N.J. Racing Comm'n*, OAL Dkt. No. RAC 0716-04, 2005 N.J. AGEN LEXIS 1331, Final Decision (November 21, 2005).

13:71-7.33 Reinstatement of owner's license

A license may be reinstated by the Commission, in its discretion, upon application and upon such terms as the Commission may prescribe.

13:71-7.34 Reinstatement of license of driver, trainer and groom

A license may be reinstated by the Commission, in its discretion, upon application and upon such terms as the Commission may prescribe.

13:71-7.35 Badges

(a) All licensed personnel who enter the stable area of any track under the jurisdiction of the New Jersey Racing Commission in any capacity whatsoever shall wear upon their outside apparel in a prominent position the authorized badges containing picture identification supplied by the Commission. This rule shall also apply to State, track, veterinarian personnel, as well as the vendors and suppliers authorized in the stable area, and the badges shall be readily available and produced by such personnel upon request of track security, county and city police, State police, Commission inspectors and stewards at said request. Failure to comply with this rule will result in a \$5.00 fine for the first offense; \$10.00 fine for the second; \$25.00 for the third; and ejection from the grounds upon the fourth offense.

1. All persons working in or about the licensed premises shall be required to be licensed in their appropriate category by the New Jersey Racing Commission.

(b) Any person losing his identification license will be subject to a fine of not less than \$2.00 or more than \$10.00. The amount of fine to be determined by the New Jersey Racing Commission.

Amended by R.1976 d.125, effective April 22, 1976.

See: 8 N.J.R. 47(b), 8 N.J.R. 308(a).

Amended by R.1982 d.109, effective April 5, 1982.

See: 13 N.J.R. 820(a), 14 N.J.R. 347(a).

“HTS” was “TRPB”.

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

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

“Police” changed to “security” and reference to HTS deleted in (a).

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

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

Revised (a)1.

13:71-7.36 Written agreements between owners and trainers

A written agreement between owners and trainers shall be filed at the time they enter a partnership or stable name on any horse. The trainer shall be responsible for filing the written agreement with the New Jersey Racing Commission and the clerk of course at the track where said horse or horses participate within 72 hours.

R.1976 d.125, effective April 22, 1976.

See: 8 N.J.R. 47(b), 8 N.J.R. 308(a).

13:71-7.37 Collection and dissemination of Social Security numbers

(a) The Racing Commission may request Social Security numbers to be furnished for use in determining an applicant's eligibility for licensure especially as it relates to credit checks, background checks or other such investigations, including those relative to open claiming. No application shall be denied for failure to comply with such request provided that a person may be required to submit such other information as the Commission may require in order to determine an applicant's eligibility for licensure.

(b) Any form used by the Commission to request submission of a Social Security number shall include the following:

1. A statement as to whether provision of a Social Security number is mandatory or voluntary;
2. A citation of the rule (which in the case of a request for voluntary submission shall be this section) that authorizes the Commission to request the Social Security number; and
3. A statement that the Commission will use Social Security numbers as a secondary internal identifier for the following purposes: Credit checks, background checks and other such investigations.

13:71-19.7 Requirements concerning the wearing of advertisement material

(a) A permitholder may impose restrictions on advertising on driver apparel provided the permitholder submits any such restrictions by way of application to the New Jersey Racing Commission for approval. The restrictions must be implemented for one of the following purposes:

1. To preserve the traditions of the turf. Traditions of the turf means those traditions which preserve a genteel, pristine appearance and atmosphere at the racetracks and that do not lend themselves to over commercialization; or
2. To promote the safety of race participants.

New Rule, R.2007 d.333, effective October 15, 2007.
See: 39 N.J.R. 2602(a), 39 N.J.R. 4420(a).

SUBCHAPTER 20. RULES OF RACING**13:71-20.1 Limitations on use of hand holders**

Drivers shall not put their hands or wrists through the hand-holders while competing in races.

13:71-20.2 Driver's meeting

(a) Before the first heat or race at any meeting is contested the racing officials and the drivers shall meet at a time and place to be designated by the presiding judge. Notice of the time and place of such meeting shall be published on the bulletin board in the office of the race secretary at least 48 hours prior to the meeting, and shall be announced over the public address system one hour prior to the meeting.

(b) The officials will announce any special rules affecting the race meeting and shall construe such of the rules of racing as shall be requested. At the conclusion of such meeting, all drivers shall be presumed to be familiar with the rules of racing.

(c) Any driver failing to attend this meeting after being duly notified, may be fined a sum not to exceed \$100.00.

(d) No driver will be permitted to drive unless he shall have attended such meeting or has met with the officials.

13:71-20.3 Substitutions of driver

If the judges believe a driver is unreliable, unfit or incompetent to drive, or if he refuses to comply with the direction of the judges, or is reckless or unmannerly in his conduct, he may be removed and another driver substituted any time after the positions have been drawn in a race. Compensation of such substitute driver may be fixed in the discretion of the judges. No driver shall, without sufficient reason, decline to be substituted by the judge.

Case Notes

Horse driver who moved into another racing lane without sufficient clearance was fined and suspended. *Stafford v. New Jersey Racing Commission*, 96 N.J.A.R.2d (RAC) 25.

13:71-20.4 Trainers' duty regarding racing of horses

A trainer is responsible for the timely attendance of his horse or horses when they are being raced, and he shall attend his horse in the paddock to supervise the preparation of such horse when it is racing.

13:71-20.5 Absence of trainer-notice-substitute trainer

If any licensed trainer is to be absent from the track where employed, the presiding judge shall be immediately notified in writing and at that time a licensed substitute trainer, acceptable to the presiding judge, shall be appointed to assume responsibility for the horse or horses racing during the absence of the regular trainer. The name of the substitute trainer shall appear on the program if possible. The presiding judge shall be advised immediately when the regular trainer is present and resumes his duties.

13:71-20.6 Racing and track rules; driving procedures

(a) Although a leading horse is entitled to any part of the track except after selecting his position in the home stretch, neither the driver or the first horse nor any other driver in the race shall:

1. Change either to the right or left during any part of the race when another horse is so near him that in altering his positions he compels the horse behind him to shorten his stride, or causes the driver of such other horse to pull him out of his stride;
2. Jostle, strike, hook wheels or interfere with another horse or driver;
3. Cross sharply in front of a horse or cross over in front of a field of horses in a reckless manner, endangering other drivers;
4. Swerve in and out or pull up quickly;
5. Crowd a horse or driver by "putting a wheel under him";
6. "Carry a horse out" or "sit down in front of him", take up abruptly in front of other horses so as to cause confusion or interference among the trailing horses;
7. Let a horse pass inside needlessly, or do any other act which constitutes what is popularly known as helping;
8. Commit any act which impedes the progress of another horse or causes him to "break";
9. Change course after selecting a position in the home stretch and swerve in or out, or bear in or out, in such manner as to interfere with another horse or cause him to change course or take back;

10. To drive in a careless or reckless manner;

11. Laying off a normal pace and leaving a hole when it is well within the horse's capacity to keep the hole closed;

12. Drivers must set and maintain a pace comparable to the class in which they are racing. Failure to do so by going an excessively slow quarter or any other distance that changes the normal pattern, overall timing, or general outcome of the race, or allowing his horse to go on an unrestrained break will be considered a violation of this section and the judges may impose a penalty which can be a fine, suspension or both.

(b) With the approval of the Racing Commission, a track may extend the width of its homestretch up to 10 feet inward in relation to the width of the rest of the racetrack. In the event the homestretch is expanded pursuant to this subsection, the following shall apply:

1. No horse shall use the extended inside lane except when entering the final homestretch run;
2. The lead horse in the homestretch shall maintain as straight a course as possible while allowing trailing horses full access to the extended inside lane; and
3. Judge's discretion shall prevail in all instances regarding the open stretch.

As amended, R.1982 d.109, effective April 5, 1982.
See: 13 N.J.R. 820(a), 14 N.J.R. 347(a).
"or allowing ... break", added.
Amended by R.1992 d.268, effective July 6, 1992.
See: 24 N.J.R. 686(a), 24 N.J.R. 2462(a).
Added (b).

Case Notes

Disqualification of first place horse for violation of N.J.A.C. 13:71-20.6(a)8 affects the second and third place horses' owners, entitling them to a hearing before the Commission upon adequate notice; one-day mailgram notice of hearing from Commission is inadequate; one-sentence decision by Commission lacked required findings and conclusions. *Pitts v. Div. of New Jersey Racing Commission*, 185 N.J.Super. 190, 447 A.2d 1348 (App.Div.1982), certification denied.

Initial Decision (2005 N.J. AGEN LEXIS 570) adopted, which concluded that Racing Commission met its burden of proof by a preponderance of the competent and credible evidence where review of videotape exhibit clearly showed that driver's horse entered the extended inside lane to a point that prohibited access by other drivers. Additionally, there was testimony from another driver regarding the effect upon the horse he was driving and respondent driver's ambiguity as to whether his horse encroached upon the extended inside lane. *N.J. Racing Comm'n v. Doherty*, OAL Dkt. No. RAC 8778-04, 2005 N.J. AGEN LEXIS 1478, Final Decision (November 15, 2005).

Unintentional lane change that impeded progress of other horse warranted three-day suspension of driver. *Manzi v. New Jersey Racing Commission*, 96 N.J.A.R.2d (RAC) 49.

Racing over passing lane during open stretch supported race horse's disqualification from first place finish. *Vacca v. New Jersey Racing Commission*, 96 N.J.A.R.2d (RAC) 20.

Impeding another driver's forward progress during race justified three-day suspension for horse driver. *Smith v. New Jersey Racing Commission*, 96 N.J.A.R.2d (RAC) 19.

Jockey suspended for causing interference or confusion among trailing horses in race. *McNichol v. New Jersey Racing Commission*, 96 N.J.A.R.2d (RAC) 1.

Suspension of horse driver, impeding progress of other horses. *New Jersey Racing Commission v. Morrill*, 95 N.J.A.R.2d (RAC) 1.

Suspension of harness driver; interference with other drivers. *New Jersey Racing Commission v. Patterson*, 94 N.J.A.R.2d (RAC) 13.

Slowing of horse constituted interference; finish placement changed. *New Jersey Racing Commission v. Stein*, 93 N.J.A.R.2d (RAC) 29.

Hooking wheels; five day suspension. *Allen v. New Jersey Racing Commission*, 93 N.J.A.R.2d (RAC) 27.

Harness driver's conduct made inevitable horse's hoof getting caught in another driver's wheel assembly; careless driving; suspension. *Parker v. New Jersey Racing Commission*, 93 N.J.A.R.2d (RAC) 19.

First driver pulling in front of second horse and causing second driver to take evasive action constituted interference; suspension ordered. *La-Chance v. New Jersey Racing Commission*, 93 N.J.A.R.2d (RAC) 13.

Abrupt slowing by sulky driver warranted disqualification of horse. *Biada v. New Jersey Racing Commission*, 92 N.J.A.R.2d (RAC) 1.

Finding that driver impeded the progress of another horse and caused him to "break." *Gillis v. New Jersey Racing Commission*, 1 N.J.A.R. 78 (1980).

13:71-20.7 Complaints by drivers; judge's stand

All complaints by drivers of any foul driving or other misconduct during the race or heat shall be made at the termination of the race or heat unless the driver is prevented from doing so by an accident or injury. At the conclusion of each race or heat, any driver desiring to enter a claim of foul or other complaint of violation of the rules must, before dismounting, indicate to the patrol judge his desire to enter such claim or complaint immediately after the race and, upon dismounting, shall proceed to the nearest telephone and advise the judges of the complaint or foul involved. The judges shall not cause the official sign to be displayed until such complaint shall have been entered and considered. All drivers must return to the paddock and remain there until the race is made official. The judges will not consider any claim of foul instituted after the race has been made official.

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

13:71-20.8 Violations involving entries, complaints, penalties

If any of the violations in N.J.A.C. 13:71-20.7 are committed by a person driving a horse coupled as an entry in the betting, the judges may set both horses back, if, in their opinion, the violation may have affected the finish of the race. 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.

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 racehorse 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).

Initial Decision (2005 N.J. AGEN LEXIS 440) adopted, which concluded that horse trainer was properly suspended for 30 days for positive drug test of horse (for Ketorolac) and disqualification of horse sharing in purse also proper where trainer merely testified that he had no idea how the horse came up positive, and upon stay of his suspension pending hearing, he failed to respond to certifications by Commission. *Carter v. N.J. Racing Comm'n*, OAL Dkt. No. RAC 629-05, 2005 N.J. AGEN LEXIS 1477, Final Decision (November 16, 2005).

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. *Caltagirone 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.)

Case Notes

Initial Decision (2008 N.J. AGEN LEXIS 756) adopted, which determined that appropriate penalty for positive drug test (for Propantheline Bromide) was suspension of 90 days and fine of \$2,500, not the increased penalty of one year and \$5,000 imposed by the Racing Commission. *Synnefias v. N.J. Racing Comm'n*, OAL Dkt. No. RAC 3520-06, 2008 N.J. AGEN LEXIS 1116, Final Decision (October 7, 2008).

13:71-23.8 Administering medication to respiratory bleeders; standards for the administration of non steroidal anti-inflammatory drugs (NSAID) and anti-ulcer medications; environmental contaminants

(a) The Board of Judges may permit the administration of medication to control respiratory bleeding under the following conditions:

1. Furosemide may be administered intravenously to a horse which is entered to compete in a race to control respiratory bleeding. Administration of furosemide shall be permitted only after the State Veterinarian has placed the horse on the Furosemide List. In order for a horse to be placed on the Furosemide List the following process must be followed:

i. After the horse's licensed trainer and a licensed, practicing veterinarian determine that it would be in the horse's best interests to race with furosemide they shall notify the State Veterinarian or his or her designee, using the prescribed form provided by the Racing Commission, that they wish the horse to be put on the Furosemide List;

ii. The form must be received by the State Veterinarian or his or her designee no later than the time of entry to ensure public notification prior to race participation;

iii. A horse placed on the Furosemide List must remain on that list unless the licensed trainer and a licensed, practicing veterinarian submit a written request to remove the horse from the List. The request must be made to the State Veterinarian or his or her designee, on the proper form, no later than the time of entry; and

iv. After a horse has been removed from the Furosemide List the horse may not be placed back on the List for a period of 60 calendar days unless it is determined to be detrimental to the welfare of the horse, in consultation with the State Veterinarian. If a horse is removed from the official Furosemide List a second time in a 365-day period, the horse may not be placed back on the list for a period of 90 calendar days;

2. The use of furosemide shall be permitted for horses on the Furosemide List under the following circumstances on the grounds of any racetrack where a detention barn is utilized:

i. Furosemide shall be administered at the direction of the State Veterinarian no less than four hours prior to post time for the race for which the horse is entered;

ii. A horse qualified for furosemide administration must be brought to the detention barn within time to comply with the four-hour administration requirement specified in (a)2i above;

iii. The dose administered shall not exceed 500 milligrams per horse (500 mg) nor be less than 150 milligrams per horse (150 mg);

iv. Furosemide shall be administered by a single, intravenous injection only;

v. After treatment, the horse shall remain in the detention barn or other designated area in the care, custody and control of its trainer or the trainer's designated representative under association and/or Commission security supervision until called to the saddling paddock; and

vi. Failure to administer furosemide in accordance with this paragraph may result in the horse being scratched from the race by the Board of Judges; or

3. The use of furosemide shall be permitted for horses on the Furosemide List under the following circumstances on the grounds of any racetrack where a detention barn is not utilized:

i. Furosemide shall be administered no less than four hours prior to post time for the race for which the horse is entered;

ii. The furosemide dosage administered shall not exceed 500 milligrams per horse (500 mg) nor be less than 150 milligrams per horse (150 mg);

iii. Furosemide shall be administered by a single, intravenous injection;

iv. The trainer of the treated horse shall cause to be delivered to the State Veterinarian, no later than one hour prior to post time for the race for which the horse is entered, the following information, on a form provided by the Racing Commission:

(1) The name of the horse, racetrack name, and the date and time the furosemide was administered to the entered horse;

(2) The dosage amount of furosemide administered to the entered horse;

(3) The printed name and signature of the attending licensed, practicing veterinarian who administered the furosemide; and

(4) The signature of the trainer or his or her representative; and

v. Failure to administer furosemide in accordance with this paragraph may result in the horse being scratched from the race by the Board of Judges.

4. The use of furosemide shall be permitted for horses on the furosemide list, under the following circumstances, on the grounds of any licensed off-track stabling facility approved by the Racing Commission as provided in (a)5 below:

i. Furosemide shall be administered no less than four hours prior to post-time for the race for which the horse is entered;

ii. The furosemide dosage administered shall not exceed 500 milligrams per horse (500mg) nor be less than 150 milligrams per horse (150mg);

iii. Furosemide shall be administered by a single intravenous injection;

iv. The trainer of the treated horse shall cause to be delivered to the State Veterinarian, no later than two hours prior to post-time for the race which the horse is entered, the following information, on a form provided by the Racing Commission:

(1) The name of the horse, off-track facility name, and the date and time the furosemide was administered to the entered horse;

- (2) The dosage amount of furosemide administered to the entered horse;
- (3) The printed name and signature of the attending licensed, practicing veterinarian who administered the furosemide; and
- (4) The signature of the trainer or his or her representative; and
- v. Failure to administer furosemide in accordance with this paragraph may result in the horse being scratched from the race by the Board of Judges.
5. An application of a licensed off-track stabling facility, seeking Racing Commission approval to offer the administration of Lasix[®] at its facility, shall be in writing. In its written application to the Racing Commission, the burden shall lie with the off-track stabling facility to demonstrate by clear and convincing evidence that the administration of Lasix[®] at the off-track stabling facility will be accomplished in a manner consistent with maximum security and maximum integrity concerns. Within 90 days of its receipt of such application of a licensed off-track stabling facility, the Racing Commission at a public meeting and in its discretion shall determine whether or not to authorize the administration of Lasix[®] at the facility. In making such a determination, the Racing Commission will consider the suitability of the off-track stabling facility for the administration of Lasix[®]. In approving an off-track stabling facility for the administration of Lasix[®], and at cost to the off-track stabling facility, the Racing Commission may impose such conditions as it deems appropriate, which may include, but not be limited to:
- i. Requirements designed to enhance security and integrity concerns of the physical area of the off-track stabling facility where Lasix[®] administrations are proposed to occur;
 - ii. A requirement that the off-track stabling facility install video and audio equipment to enable the Racing Commission to monitor in real-time any Lasix[®] administrations and activity in the physical area of the off-track stabling facility where Lasix[®] administrations are proposed to occur;
 - iii. A requirement that the off-track stabling facility install video and audio recording equipment suitable to record any Lasix[®] administrations and activity in the physical area of the off-track stabling facility where Lasix[®] administrations are proposed to occur;
 - iv. The presence at the off-track stabling facility of suitable facsimile, computer hardware and computer software to insure proper recordkeeping and transmission of data to the Racing Commission concerning Lasix[®] administrations at the off-track stabling facility; and
 - v. Requirements that the equipment necessary for the administration of Lasix[®] to racehorses be present and be properly maintained at the off-track stabling facility.
6. If a horse is approved to receive Furosemide, the use of aminocaproic acid (AMICAR[®] injectable only) as an adjunct bleeder medication may be co-administered by a licensed veterinarian only when the horse receives Furosemide. Dose: AMICAR[®] injectable 10 ml (2.5 gram) I.V. four hours pre-race.
- i. Veterinarians shall report that the horse was co-treated with AMICAR[®] on the Furosemide medication slip.
 - ii. The administration of AMICAR[®], pursuant to this paragraph, is only approved through December 31, 2007.
- (b) The State Veterinarian shall maintain a Bleeder List of all horses which have demonstrated external evidence of exercise induced pulmonary hemorrhage from one or both nostrils during or after a race or workout. Every confirmed bleeder, regardless of age, shall be placed on the Bleeder List and be ineligible to race for the following time periods:
1. For the first incident, the confirmed bleeder will be ineligible to race for 14 days;
 2. For the second incident, the confirmed bleeder will be ineligible to race for 30 days;
 3. For the third incident, the confirmed bleeder will be ineligible to race for 180 days; and
 4. For the fourth incident, the confirmed bleeder will be barred from racing for its lifetime.
- (c) For the purposes of counting the number of days a horse is ineligible to run, the day the horse bled externally is the first day of the recovery period. All horses on the Bleeder List who are eligible to race shall be administered furosemide before they can race. The voluntary administration of furosemide without an external bleeding incident shall not subject the horse to the initial period of ineligibility as defined by (b) above. A horse may be recommended for removal from the Bleeder List only on the direction of the licensed, practicing veterinarian, who shall certify in writing to the Board of Judges the recommendation for removal. A horse, which has been placed on a Bleeder List in another jurisdiction pursuant to these rules, shall be placed on a Bleeder List in this jurisdiction.
- (d) 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 in (b) above. Post-race test results must show a detectable concentration of furosemide in the serum, plasma or urine sample taken from a furosemide treated horse. Quantitation of furosemide in serum or plasma shall be performed and concentrations may not exceed 100 nanograms of furosemide per milliliter of serum or plasma. In the event a post-race analysis of a blood sample reveals that the concentration of furosemide exceeds a level of 100 nanograms per milliliter of serum or plasma (100 ng/mL) or in the event that a post-race analysis of a blood or

urine sample reveals no detectable concentration of furose-mide, the trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, shall be liable to the penalties as set forth in (e) below.

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

1. A trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, shall receive a warning for the first violation.
2. A trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, shall receive a fine not to exceed \$500.00 for a second violation.
3. A trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, shall be suspended, fined or both for a third violation.
4. Repeated violations of (d) above by a trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, for any horse under their care may subject said trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, to fine and/or suspension regardless of whether or not the same horse is involved.

(f) Notwithstanding anything to the contrary herein or in N.J.A.C. 13:71-23.1, no penalty shall be imposed where on the day of the race a horse carries in its body either Phenylbutazone or Flunixin, both NSAID(s), under the following conditions:

1. The NSAID level does not exceed the following permitted serum or plasma threshold concentrations which are consistent with administration by a single intravenous injection that follows the FDA-approved dose regimen for each product(s) at least 24 hours before the post time for the race in which the horse is entered:
 - i. Phenylbutazone (or its metabolite oxphenylbutazone) - five micrograms per milliliter (five $\mu\text{g}/\text{mL}$);
 - ii. Flunixin -20 nanograms per milliliter (20 ng/mL);
2. Phenylbutazone and Flunixin are not to be administered within the 24 hours before post time for the race in which the horse is entered; and
3. The presence of more than one of the two approved NSAID or any unapproved NSAID(s) in the post-race serum or plasma sample is not permitted. The use of all but one of the approved NSAID shall be discontinued at least 48 hours before the post time for the race in which the horse is entered.

(g) In the event post-race testing determines that the threshold levels set forth for the two permitted NSAID(s) were exceeded, there is evidence of more than one of the two permitted NSAID(s) present or there is evidence of an unapproved NSAID the Board of Judges shall penalize, the trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, as follows, regardless of whether or not the same horse is involved:

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

(h) The following anti-ulcer medications may be administered up to 24 hours prior to the race in which the horse is entered: Omeprazole; Cimetidine; Ranitidine; and Sucralfate. In the event a horse tests positive for any of the anti-ulcer medications identified in this subsection, the trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, shall be subject to the following penalties:

1. \$250.00 fine for the first violation;
2. \$500.00 fine and loss of purse for the second violation; and
3. Increased fine, loss of purse and license suspension as deemed appropriate by the Board of Judges for the third and subsequent violations.

(i) The following substances may be present in post-race samples as a result of possible environmental contamination from plants that are traditionally grazed or harvested as equine feed or are present from contamination during cultivation, processing, treatment, storage and transportation phases that contribute to contamination:

1. Atropine;
2. Dimethyl sulfoxide;
3. Estradiol;
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.

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).

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

Subchapter Historical Note

Petition for Rulemaking: Allowing of two forms of pari-mutuel wagering. 37 N.J.R. 1895(a).

Petition for Rulemaking: Mutuels. 37 N.J.R. 2261(b).

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.