

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

#### Case Notes

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

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

#### 13:71-1.21 Financial irresponsibility

No licensee shall accumulate unpaid obligations or default in obligations, or issue drafts or checks that are dishonored or payment refused, or otherwise display financial irresponsibility reflecting on the track or the sport.

#### 13:71-1.22 Designation of Commission agents

In enforcing the racing laws and the rules and regulations of the Commission, the Commission may designate enforcement personnel assigned to it by the New Jersey Department of Law and Public Safety. Such personnel, while so acting, shall be designated as agents of the Commission.

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

#### 13:71-1.23 Modification of penalties

The Commission may modify on its own motion any penalty or decision imposed by a racing official pursuant to the rules and regulations as herein contained.

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

#### 13:71-1.24 Smoking prohibited

Smoking is prohibited under the shed row of any barn. Persons found violating this rule will be reported to the judges and shall be subject to a fine of \$25.00 for the first offense, \$50.00 for the second offense and to suspension for the third or subsequent violation.

R.1982 d.109, effective April 5, 1982.  
 See: 13 N.J.R. 820(a), 14 N.J.R. 347(a).  
 R.1983 d.337, effective August 15, 1983.  
 See: 15 N.J.R. 873(b), 15 N.J.R. 1383(a).

#### 13:71-1.25 Horsemen associations

(a) It shall be the intent of this section to establish guidelines that ensure that funds allocated to the horsemen's organizations by statute (N.J.S.A. 5:5-66) are used to finance programs to benefit all New Jersey horsemen and that ad-

ministrative and overhead costs are reasonably related to such programs.

(b) Funds allocated to the horsemen's organizations by statute must be used to benefit all New Jersey horsemen. Membership in the horsemen's organizations shall not be a condition for receiving benefits.

(c) Amounts collected as voluntary dues from members are excluded from this rule. However, funds acquired from sources other than the statutory allocation to these associations must be kept separate and apart from funds obtained from the statutory allocation.

(d) The horsemen's organizations shall maintain adequate records concerning receipt of and distribution of funds allocated to them by statute. The New Jersey Racing Commission shall have access to all records maintained by the horsemen's organizations which relate directly or indirectly to funds allocated by statute.

(e) The horsemen's organizations shall submit detailed budgets to the Racing Commission by December 15 of each year, for the following calendar year, identifying the source and use of funds and any surplus or deficit that may result. The budget must include the actual prior year's expenses in each category for comparison purposes. In addition, quarterly budget reports must be filed with the Commission 45 days after the close of each quarter. These reports must reflect actual income and expenses to date, as well as projected income and expenses for the remainder of that year. Prior approval must be obtained from the Commission for all expenditures that exceed the approved budget levels.

(f) Audited financial statements, including balance sheet, income statement and source and use of funds, prepared by a certified public accountant of New Jersey, must be filed with the Commission by February 28 of each year for the preceding calendar year.

(g) Funding for benevolent programs, including but not limited to pension plans, health and life insurance plans, etc. will be considered reasonable if such program funding on an annual basis is at least 70 percent of the total statutory allocation. Whether or not a program will be considered a "benevolent program" will be decided upon application to the Racing Commission. Annual benevolence program funding below 70 percent of the total statutory allocation requires justification satisfactory to the Commission. The administrative costs and overhead expenses of administering the horsemen's organizations', including benevolent, programs may not exceed 30 percent of the total allocated by statute unless and to the extent specifically authorized in advance by the Racing Commission.

(h) General administration and overhead expenses are considered reasonable if they are less than 30 percent of the statutory allocation. Funding above 30 percent of the total statutory allocation requires justification satisfactory to the Commission. Within this category, expenses for travel, enter-

tainment, meals and lodging are considered reasonable if they conform to the horsemen's organizations' travel and expense reimbursement guidelines on file and approved by the Commission. For expenses in excess of amounts allowed under these guidelines, the Racing Commission may require special justification and/or prior approval.

(i) Payments to national programs are allowed only to the extent that the horsemen's organizations can clearly show that the payments benefit all New Jersey horsemen, not just members of these organizations.

(j) If the accumulated surplus exceeds \$250,000 at the end of a calendar year, horsemen's organizations are required to utilize the amount in excess of the \$250,000 for new or expanded benevolent programs or justify to the Racing Commission why they do not intend to utilize the excess funds.

(k) Violation of this section may subject the organization to a fine not to exceed \$1,000 per violation.

New Rule, R.1988 d.76, effective February 16, 1988.  
See: 19 N.J.R. 856(a), 20 N.J.R. 405(b).  
Amended by R.1988 d.401, effective August 15, 1988.  
See: 20 N.J.R. 1174(a), 20 N.J.R. 2071(a).  
Substantially amended.  
Amended by R.1989 d.109, effective February 21, 1989.  
See: 20 N.J.R. 2997(a), 21 N.J.R. 451(d).  
Repealed old (j) and substituted new (j).

### **13:71-1.26 Commission employees/appointees; prohibited affiliations with permitted racetracks**

No employee or appointee of the New Jersey Racing Commission shall provide any services to a permitted racetrack facility in this State, whether or not for compensation, where those services are outside the scope of his or her duties on behalf of the Commission.

New Rule, R.1993 d.686, effective December 20, 1993.  
See: 25 N.J.R. 4459(a), 25 N.J.R. 5939(a).

### **13:71-1.27 Rules of practices and procedures**

This section and N.J.A.C. 13:71-1.28 through 1.36 shall constitute rules governing the practices and procedures of the Commission. The rules of practices and procedures in this subchapter shall apply to all practices and procedures that are not otherwise addressed by the rules in this chapter. When an appeal of a licensee is transmitted to the Office of Administrative Law, or the Commission elects to hear the appeal as a contested case, the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1 shall govern the proceedings.

New Rule, R.2008 d.340, effective November 17, 2008.  
See: 40 N.J.R. 4300(a), 40 N.J.R. 6635(a).

### **13:71-1.28 Liberal construction of rules of practice and procedure**

(a) The rules governing the practices and procedures of the Commission in this subchapter, N.J.A.C. 13:71-1.27 through 1.36, shall be liberally construed to permit the Commission and its Executive Director to discharge the Commission's statutory and regulatory functions and to secure just and expeditious determinations of matters before the Commission.

(b) The Executive Director may, upon notice to all parties given the statutory right to participate in a proceeding before the Commission by N.J.S.A. 5:5-22 through 160 or 5:12-191 through 210, relax the application of these rules when, in his or her discretion, factors including, but not limited to, fundamental fairness, the need for expeditious action and party requests for more time would warrant doing so.

(c) In any matter that arises, which is not governed by the rules of practices and procedures in this subchapter, the Executive Director shall have the authority to exercise his or her discretion in deciding whether to place the matter on the meeting agenda and present it to the Commission.

New Rule, R.2008 d.340, effective November 17, 2008.  
See: 40 N.J.R. 4300(a), 40 N.J.R. 6635(a).

### **13:71-1.29 Notice of proceedings before the Commission**

When acting to carry out its statutory authority in matters that are not "contested cases," as defined in N.J.S.A. 52:14B-2(b), the Commission shall provide written notice to all interested parties informing them of the issues to be considered and the date upon which it is anticipated that the Commission will act. This notice shall be sent by the Commission, to the extent possible, at least 30 days prior to the anticipated date of action unless unforeseen or exigent circumstances necessitate otherwise. "Interested parties" shall be those persons or entities that are identified by statute and given the express authority to submit applications, comments or other information to the Commission for its consideration before or when reaching a decision at a scheduled meeting.

New Rule, R.2008 d.340, effective November 17, 2008.  
See: 40 N.J.R. 4300(a), 40 N.J.R. 6635(a).

### **13:71-1.30 Opportunity to submit information to the Commission**

(a) When providing notice pursuant to N.J.A.C. 13:71-1.29, the Commission shall inform the interested parties, as defined therein, that they shall have the opportunity to submit information regarding their position on the matter to the Commission for its consideration. To be considered, all such information shall be filed and received by the Commission within 15 days after the date of notice.

(b) At least 10 days prior to the date upon which it is anticipated that the Commission will act, the Commission shall provide copies by facsimile of all information received

2. That such a waiver is consistent with the intent of, if not the letter of, its rules; or

3. Where strict application of the rule would create an unnecessary hardship that is contrary to the legislative intent of the underlying statutes, the public interest or the integrity of the sport.

(c) The Commission may waive application of any rule in an individual circumstance on its own motion upon finding that such relief is warranted by the factors set forth in (b) above.

(d) The Commission shall not grant a waiver of its rules where to do so would be contrary to or inconsistent with an applicable statute.

(e) All decisions on requests for waiver shall be made at a public meeting of the Commission.

New Rule, R.2008 d.340, effective November 17, 2008.  
Sec: 40 N.J.R. 4300(a), 40 N.J.R. 6635(a).

### 13:71-1.35 Procedure for modification of penalties

(a) The Commission may modify any penalty or decision imposed by a racing official either on its own motion or when requested to do so by the Executive Director. The application of this rule applies to the modification of penalties prior to the transmittal of the matter to the Office of Administrative Law as a contested case. The Commission's modification of any penalty or decision recommended by the Administrative Law Judge in an initial decision shall continue to be governed by the applicable provision of the Administrative procedure Act, N.J.S.A. 52:14B-1 et seq.

(b) At least 15 days before the scheduled meeting at which the issue of modification will or may be addressed, the Commission shall notify the licensee involved and allow him or her to submit in writing any information he or she wishes the Commission to consider. All such submissions shall be filed with the Commission at least 5 days prior to the meeting.

(c) In deciding whether to modify such penalty or decision, the Commission shall consider factors, which may include:

1. Penalties imposed by the Commission in similar matters;
2. Whether the actions of the licensee placed the safety of other race participants at risk;
3. Whether the actions of the licensee had the potential to jeopardize the health of any race horse;
4. The extent to which the licensee's actions constituted conduct detrimental to the sport.
5. The extent to which the licensee's actions had a negative impact on the integrity of the sport.

6. Whether the actionable conduct of the licensee appears to be an isolated incident or a pattern of disregard of the Commission's rules.

(d) In deciding whether to modify such penalty or decision, the Commission shall consider the evidence before the racing official and any information submitted by the licensee pursuant to (b) above. In considering such evidence, the Commission may rely upon a staff summary and analysis of the evidence below.

(e) When modifying a penalty or decision, the Commission shall issue a written ruling setting forth the modification and the basis of its decision.

(f) Nothing in this section shall be interpreted as meaning that the Commission's authority to impose penalties is limited to licensees. The Commission's regulatory authority to issue penalties extends to all persons or entities engaging in conduct that requires licensure.

New Rule, R.2008 d.340, effective November 17, 2008.  
Sec: 40 N.J.R. 4300(a), 40 N.J.R. 6635(a).

### 13:71-1.36 Representation by attorney

(a) In any matter before the Commission or its judges prior to the determination that the matter is a contested case, a licensee may represent himself or herself or be represented by an attorney authorized to practice law in this State. A licensee which is a corporation must be represented by an attorney authorized to practice law in this State.

(b) An attorney from any other jurisdiction, of good standing there, or an attorney admitted in this State, of good standing, who does not maintain a bona fide office for the practice of law here, may, upon application to and at the discretion of the Executive Director, be admitted once per calendar year to appear pro hac vice in a matter pending before the Commission or its judges.

1. Admission before the Commission pro hac vice shall be by motion of an attorney authorized to practice in New Jersey on the form prescribed by N.J.A.C. 1:1-5.2(a)1.

2. The motion seeking admission for the one occasion shall be served on all parties and have attached a supporting affidavit, signed by the attorney seeking admission, which, except for attorneys who are employees of and are representing the United States of America or a sister state, shall state that payment has been made to the New Jersey Lawyers Fund for Client Protection. The affidavit shall state how he or she satisfies each of the conditions for admission, including good cause, set forth in New Jersey Court Rule 1:21-2(a). He or she shall also agree in the affidavit to comply with the dictates of New Jersey Court Rule 1:21-2(b).

(c) In a matter pending before the Office of Administrative Law, the Deputy Attorney General representing the Commission shall not consent to the appearance of any attorney

seeking admission pro hac vice, who has already appeared once before the Commission or its judges pursuant to (b) above or at the Office of Administrative Law, in a matter involving the Commission in that calendar year.

New Rule, R.2008 d.340, effective November 17, 2008.  
See: 40 N.J.R. 4300(a), 40 N.J.R. 6635(a).

## SUBCHAPTER 2. VIOLATIONS

### Cross References

Judges and patrol judges, see N.J.A.C. 13:71-8.5.

### 13:71-2.1 Liability

Any person or association licensed by the Commission or any person or association subject to the jurisdiction of the Commission violating any of its rules or regulations shall be liable to the penalties herein provided, unless otherwise limited in and by the rules and regulations of the Commission.

### 13:71-2.2 Attempt to violate

Any attempt to violate the law or any of the rules and regulations of the Commission falling short of actual accomplishment shall constitute an offense and shall be punishable as if consummated.

### 13:71-2.3 Penalties

(a) The penalties for violation of the law or the rules of the Commission shall be as follows:

1. Denial, revocation or suspension of license;
2. Monetary fines not exceeding \$50,000 for each violation. The steward and board of judges may not impose directly a fine in excess of \$5,000.
3. Suspension from one or more activities at one or more tracks;
4. Expulsion from racing in New Jersey;
5. Forfeiture of purse;
6. In addition to the foregoing, the Commission may impose as a condition to licensing such conditions as it shall deem appropriate to secure compliance with the rules, regulations and directives of the Commission.

(b) Any penalty of suspension from driving shall commence after a hearing before the judges and shall be served on a continuing basis. Where the term of suspension equals or is less than the normal number of scheduled live race days during a week at the track association where the infraction occurred, the continuous suspension shall be imposed as soon as practical following the hearing and on dates where live

racing there occurs. Where the term of suspension exceeds the normal number of scheduled live race days during a week at the track association where the infraction occurred, the continuous suspension shall be imposed as soon as practical following the hearing and on dates so as to encompass the maximum number of live race days there possible. However, where the term of suspension cannot be imposed consistent with the formulas set forth in this subsection due to the suspension of racing at the track where the infraction occurred, or where the judges determined that the application of such formulas would otherwise not be practical, the judges shall, in their discretion, determine the continuous dates over which the suspension is to be served. There shall be exceptions for stakes, futurities, early closures or feature races during the period of suspension as set forth below:

1. The board of judges may permit a driver serving a suspension of 10 days or less to drive in a designated race during the suspension if:

- i. The race has been specified as a designated race by the racing secretary of the association before the inception of the race meeting at the association;
- ii. The race has been approved as a designated race by the board of judges officiating at the meeting;
- iii. The driver, before the beginning of the suspension, satisfactorily demonstrates to the board of judges that the driver is scheduled to drive a horse in the designated race; and
- iv. The driver agrees to serve an additional racing day of suspension in place of the day on which the driver drives in the designated race.

(c) The penalties provided above, where applicable, shall be exacted from all persons, whether licensed by the Commission or not.

As amended, R.1976 d.125, effective April 22, 1976.  
See: 8 N.J.R. 47(b), 8 N.J.R. 308(a).  
As amended, R.1976 d.292, effective September 16, 1976.  
See: 8 N.J.R. 250(c), 8 N.J.R. 483(a).  
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.1993 d.484, effective October 4, 1993.  
See: 25 N.J.R. 2647(b), 25 N.J.R. 4600(c).  
Amended by R.2001 d.250, effective July 16, 2001.  
See: 33 N.J.R. 1338(a), 33 N.J.R. 2493(c).

In (b), inserted "as set forth below:" at the end of the introductory paragraph, and added 1.

Amended by R.2004 d.156, effective April 19, 2004.  
See: 35 N.J.R. 4183(a), 36 N.J.R. 1952(b).

Rewrote (a)2.

### Case Notes

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

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

**13:71-2.4 Betting restrictions; owner, trainer and driver**

No owner, trainer or driver of a horse entered in a race shall bet or cause any other person to bet on his behalf on any horse other than his own horse. In the case of exotic pools all

tickets purchased by an owner, trainer or driver must include his horse entered to race.

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

(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).

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**

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.

(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).

### 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.

### 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.

### 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.

### 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.

1. The maintenance of the judges' books, the stewards' list and the accident reports;
2. The preparation, delivery and posting of all notices of penalties, rulings and decisions relative to racing;
3. The procedures prescribed by these rules with respect to investigations and hearings;
4. The drivers meetings prescribed by the rules;
5. The handling of entries and declarations to start and the application of preferences to race;
6. All announcements over the public address system pertaining to the race program;
7. The admittance of persons to judges' stand subject to the direction of the commission;
8. The coupling of horses accepted for entry where it is necessary to protect the public interest;
9. The declaration as provided for under the rules of racing.

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

#### Case Notes

Board of Judges at a harness racing meeting has authority to impose fines and penalties as proscribed by the Commission; driver's due process rights not violated by track officials testifying at administrative hearing. *DeVitis v. New Jersey Racing Commissions*, 202 N.J.Super. 484, 495 A.2d 457 (App.Div.1985), certification denied 102 N.J. 337, 508 A.2d 213 (1985).

#### 13:71-8.22 Powers of judges

(a) Presiding judges and associate judges shall have authority to:

1. Impose fines and penalties as prescribed by the commission;
2. Determine all questions of fact relating to a race;
3. Decide any difference between parties to a race or any contingent matter which shall arise which is not otherwise provided for in the rules;
4. Declare pools and bets "off" in case of fraud, or to declare any horse a nonstarter and to direct and refund of all wagers made thereon. All pools and bets shall follow the decision of the judges. Such decisions in respect to pools and bets shall be made at the conclusion of the race upon the observations of the judges and upon such other facts as an immediate investigation may develop. A reversal or change of decision after the official placing at the conclusion of a heat or dash shall not affect the distribution of the betting pools made upon such official placing. When pools and bets are declared "off" for fraud, the guilty parties shall be penalized;
5. Control the horses, drivers, trainers, grooms and assistants and punish any person who shall fail to obey their orders or the rules;
6. Examine under oath all parties connected with a race as to any wrong or complaint. Any person required to appear before the judges for a hearing or examination who shall fail to appear after due notice in writing shall be penalized;
7. Consider complaints of foul from the patrols or drivers in the race and no others.

#### Case Notes

Board of Judges at a harness racing meeting has authority to impose fines and penalties as proscribed by the Commission; driver's due process rights not violated by track officials testifying at administrative hearing. *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).

#### 13:71-8.23 Duties of judges

(a) It shall be the duty of the judges to:

1. Exclude from the race any horse that in their opinion is improperly equipped, dangerous or unfit to race. A horse is unfit to race if he is sick, blind, weak or extremely lame. No horse shall race with a tube in its throat. Where a driver or owner reports to the presiding judge that his horse is unfit to race, ill or otherwise physically incapable of racing, the presiding judge shall call for an examination of the horse by the track veterinarian and the track veterinarian shall examine such horse and submit a written report of his findings to the presiding judge;
2. Investigate any apparent or possible interference or other violation of the rules whether or not a complaint has been made by a driver;
3. Investigate any act of cruelty, seen by them or reported to them, toward a race horse during a meeting at which they officiate. If the judges find that such an act has been committed, they shall penalize the offending person;
4. Immediately thereafter or on the day of the race the judges shall fill out a complete accident report and mail the report to the United States Trotting Association;
5. Observe the performance of the drivers and the horses closely to ascertain if there are any violations of these rules. They shall exhaust all means possible to safeguard the contestants and the public;
6. Grant a hearing at a designated time in accordance with the rules before a penalty may be imposed upon any party. All three judges should be present if possible, and at least the presiding judge and one associate judge must be present at all hearings. The judges may inflict the penalties prescribed by these rules. All penalties shall be recorded as per the rules. Such penalty is effective from

the time the penalized party receives notice thereof in accordance with the rules;

7. Declare a dash or heat of a race no contest in the event that a track is thrown into darkness during the progress of a race by failure of electricity.

#### 13:71-8.24 Procedure of judges

(a) It shall be the procedure of the judges to:

1. Be in the stand 15 minutes before the first race and remain in the stand for 10 minutes after the last race and at all times when the horses are upon the track;

2. Observe the preliminary warming up of horses and scoring; noting the behavior of horses, lameness, equipment, conduct of drivers, changes in odds and any unusual incidents pertaining to horses or drivers participating in races;

3. Have the bell rung or give other notice at least 10 minutes before a race or heat. Any driver failing to obey this summons may be punished and his horse may be ruled out by the judges and considered drawn;

4. Designate one of their members to lock the pari-mutuel machines immediately upon the horses reaching the official starting point. The presiding judge shall designate the post time for each race and the horses will be called at such time as to preclude excessive delay after the completion of two courses;

5. Be in communication with the patrol judges where patrol judges are used, by use of patrol phones, from the time the starter picks up the horses until the finish of the race. Any violation or near violation of the rules shall be reported by the patrol judge witnessing the incident and a written record made of same. At least one judge shall observe the drivers throughout the stretch specifically noting any change in course, interference, improper use of whips, breaks and failure to contest the race to the finish;

6. Be in continuous communication with each other in cases where the Commission requires one of them to ride in the starting gate behind the horses for the purpose of patrolling the race. In such case, the judge assigned to the starting gate shall maintain continuous communications with a judge assigned to the judge's stand and perform all duties described by the rules;

7. Post the objection sign, or inquiry sign, on the odds board in the case of a complaint or possible rule violation, and immediately notify the announcer of the objection and of the horse or horses involved. As soon as the judges have made a decision, the objection sign shall be removed, the correct placing displayed and the "Official" sign flashed. In all instances the judges shall post the order of finish and the "Official" sign as soon as they have made their decision;

8. Display the photo sign if the order of finish among the contending horses is less than half-length or a contending horse is on a break at the finish. After the photo has been examined and a decision made, a copy or copies shall be made, checked by the presiding judge and posted for public inspection;

9. Sign the judges' book after each race, verifying the correctness of the record by the clerk of the course.

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

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

Deleted requirement for all horses and drivers to return to judge's stand and salute before "Official" sign could be posted.

#### 13:71-8.25 Duties of patrol judges

(a) Where patrol judges are required by the Commission or utilized by the association on its own motion, they shall observe all activity on the race track at all times during the racing program. There shall be not less than two patrol judges. They shall immediately report to the presiding judge:

1. Any action on the track which could improperly affect the result of a race;
2. Every violation of the racing rules;
3. Every violation of the rules or decorum;
4. The lameness or unfitness of any horse;
5. Any lack of proper racing equipment.

(b) The patrol judges shall, furthermore:

1. Be in constant telephonic communication with the judges during the course of every race and shall immediately advise the judges of every rule violation, improper act or unusual happening which occurs at their stations;
2. Submit individual daily reports of their observations of the racing to the presiding judge;
3. When directed by the Executive Director or steward of the Commission or the presiding judge, attend hearings or inquiries on violations and testify thereat under oath.

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

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

"Director" changed from "Secretary".

#### 13:71-8.26 Absent officials

If any race official is absent or incapacitated, the Executive Director of the Commission or, in his absence, the steward of the Commission may appoint a substitute at such meeting. Notice of such appointment shall be given immediately to the Commission and to the United States Trotting Association.

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

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

"Director" changed from "Secretary".

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

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

“Stewards” changed to “Judges”, throughout.

#### Case Notes

Harness race drivers' breathalyzer regulation cited as similar to breathalyzer regulation for jockeys in finding the latter valid. *Shoemaker v. Handel*, 795 F.2d 1136 (3rd Cir.1986) certiorari denied 107 S.Ct. 577, 479 U.S. 986, 93 L.Ed.2d 580.

### 13:71-18.2 Urine test

(a) No licensee or official shall use any controlled dangerous substance as defined in the “New Jersey Controlled Dangerous Substances Act”, N.J.S.A. 24:21-1, et seq., unless such substance was obtained directly, or pursuant to valid prescription or order from a licensed physician, while acting in the course of his professional practice. It shall be the responsibility of the official, driver, trainer or groom to give notice to the State Steward or presiding Judge that he is using a controlled dangerous substance pursuant to a valid prescription or order from a licensed practitioner.

(b) Every official, driver, trainer or groom for any race, qualifier or fair event at any licensed racetrack or fair site, may be subjected to a urine test or tests at the direction of the State Steward and/or Presiding Judge, in a manner prescribed by the New Jersey Racing Commission. Any official, driver, trainer or groom who fails to submit to a urine test when requested to do so by the State Steward and/or Presiding Judge, shall be liable to the penalties provided in N.J.A.C. 13:71-2.

(c) Any official, driver, trainer or groom who is requested to submit to a urine test shall provide the urine sample, without undue delay, to a chemical inspector of the Commission. The sample so taken shall be immediately sealed and tagged on the form provided by the Commission, and the evidence of such sealing shall be indicated by the signature of the tested official, driver, trainer or groom. The portion of the form which is provided to the laboratory for analysis shall not identify the individual official, driver, trainer or groom by name. It shall be the obligation of the official, driver, trainer or groom to cooperate fully with the Chemical Inspector in obtaining any samples which may be required and to witness the securing of such sample.

(d) A “positive” controlled dangerous substance or prescription drug result shall be reported, in writing, to the Executive Director or his or her designee. On receiving written notice from the official chemist that a specimen has been found “positive” for controlled dangerous substances or prescription legend drugs, the Executive Director or his or her designees shall proceed as follows:

1. For a licensee's first violation, he or she shall not be allowed to participate in racing until such time as his or her condition has been professionally evaluated.

i. After such professional evaluation, if said licensee's condition proves non-addictive and not detrimental to the best interests of racing, said licensee shall

not be allowed to participate in racing, until he or she can produce a negative test result performed at the Commission testing laboratory, which may be at the licensee's expense, and agrees to further testing at the direction of the Executive Director or his or her designee.

ii. After such professional evaluation in which said licensee's condition proves addictive or detrimental to the best interests of racing, said licensee shall not be allowed to participate in racing until he or she can produce a negative test result performed at the Commission testing laboratory, which may be at the licensee's expense, and show documented proof that he or she has successfully completed a certified rehabilitation program approved by the Department of Health or a similar agency in another jurisdiction. Inquiries as to whether a particular program meets the approval requirements of this rule shall be referred to the Executive Director or his or her designee for determination. In addition, said licensee shall agree to further mandatory testing at the direction of the Executive Director or his or her designee.

iii. In addition to other requirements specified in this subsection, the Racing Commission may require a licensee to submit additional proof of rehabilitation as may be required in view of the licensee's patient assessment; his or her medical, drug and/or alcoholism history including current physiological dependency on drugs and/or alcohol and the duration of the addiction or abuse; and the facts and circumstances surrounding the violation.

2. For a licensee's second violation, he or she shall be required to enroll in a certified drug rehabilitation program approved by the Department of Health or a similar agency in another jurisdiction. Inquiries as to whether a particular program meets the approval requirements of this rule shall be referred to the Executive Director or his or her designee for determination. In addition, said licensee shall agree to further mandatory testing at the direction of the Executive Director or his or her designee. Said licensee's license shall be suspended for six months or until the requirements are fulfilled, whichever is greater.

3. For a licensee's third violation, he or she shall be liable to the penalties provided in N.J.A.C. 13:71-2.3, including revocation of the individual's license. A licensee may apply for reinstatement after five years but such reinstatement shall be at the discretion of the Commission based upon a review of the licensee's entire record.

4. After a licensee's first violation, such additional drug tests, as are required by the Commission, may be at the licensee's expense. It shall be the licensee's responsibility to provide the Commission with such status reports as the Commission may require, including, but not limited to, written notice of enrollment, weekly status reports, and written notice of discharge and successful completion of the program.

(e) Any information received in the process of obtaining a urine sample, including but not limited to medical information, the results of any urine test, and any reports filed as a result of attending a Supervisory Treatment Program shall be treated as confidential, except for their use with respect to a ruling issued pursuant to this rule, or any administrative or judicial hearing with regard to such a ruling. Access to the information received and/or reports of any positive results and/or reports from a Supervisory Treatment Program shall be limited to the Commissioners of the New Jersey Racing Commission, the Executive Director and/or his designee, Counsel to the Racing Commission and the subject, except in the instance of a contested matter. In the instance of a contested matter, any information received and reports prepared shall not be disclosed without the approval of the Executive Director or his designee.

(f) Information received and reports prepared pursuant to this rule shall be stored in a locked secure area in the office of the Executive Director for a period of one year, after which time, they shall be destroyed. However, the Commission may maintain the information received and reports on individuals who have violated this rule for the purpose of recording the number of violations and the results of supervisory treatment, and for use should future violations occur.

R.1984 d.412, eff. September 17, 1984.  
See: 16 N.J.R. 1459(a), 16 N.J.R. 2453(a).  
Amended by R.1985 d.603, effective December 2, 1985 (operative January 1, 1986).  
See: 17 N.J.R. 1641(a), 17 N.J.R. 2913(a).  
Substantially amended.  
Amended by R.1985 d.642, effective December 16, 1985.  
See: 17 N.J.R. 2364(b), 17 N.J.R. 2997(a).  
(e) substantially amended; (f) added.  
Amended by R.1991 d.74, effective February 19, 1991.  
See: 22 N.J.R. 3452(a), 23 N.J.R. 611(b).

New (d)1.-4., added restrictions for individuals who have tested positive for a controlled dangerous substance or prescription medication without a valid prescription.

#### Case Notes

Suspension; jockey failed to submit to urine test. Case v. New Jersey Racing Commission, 94 N.J.A.R.2d (RAC) 45.

Diluting urine sample; suspension and fine imposed. New Jersey Racing Commission v. Johnson, 93 N.J.A.R.2d (RAC) 3.

### SUBCHAPTER 19. COLORS AND DRIVERS ATTIRE

#### 13:71-19.1 Wearing distinguishing colors

(a) Drivers must wear distinguishing colors. No driver shall be permitted to start in a race or other public performance unless in the opinion of the judges he is properly dressed.

(b) When drivers are participating in races during inclement weather, they shall wear rain suits of their registered colors, or suits made of a transparent material through which their colors may be distinguished.

(c) Those drivers not complying with (a) and (b) above must race in their regular colors.

#### 13:71-19.2 Wearing colors at betting window, grandstand, clubhouse or bar

No driver wearing colors shall appear at a betting window, grandstand or clubhouse, or at a bar or in a restaurant dispensing alcoholic beverages.

#### 13:71-19.3 Registered colors

No driver or trainer shall be allowed to drive in any race or public performance, or to otherwise appear on the race track during the racing program unless wearing his own or his owner's registered colors. No driver may appear in colors registered in the name of another, without the special permission of the presiding judge.

#### 13:71-19.4 Safety helmets

No individual will be permitted to drive on a racetrack unless wearing a protective safety helmet of a type satisfactory to the Commission with chin strap in place. For purposes of this rule "satisfactory" shall be deemed to require that any helmet to be used be manufactured in compliance with the 1984 Snell Harness Racing Standard or in compliance with any other safety standard as approved from time to time by the Commission.

Amended by R.1984 d.620, effective January 21, 1985.  
See: 16 N.J.R. 2977(a), 17 N.J.R. 204(c).  
Text substantially amended.

#### 13:71-19.5 Attire

Every driver in a race shall be attired in white pants. A violation of this rule will subject a driver to a fine or suspension.

#### 13:71-19.6 Safety vests

All individuals, at all times, on horseback or in a sulky or jogging cart affixed to a horse, on a racetrack or licensed off-track stabling facility, shall wear a safety vest designed to provide shock absorbing protection of at least a rating of five, as defined by the British Equestrian Trade Association (BETA).

New Rule, R.1995 d.203, effective April 3, 1995 (operative August 15, 1995).  
See: 26 N.J.R. 4482(b), 27 N.J.R. 1440(a).

#### 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.

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.

#### 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**

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

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

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).

**13:71-23.2 Testing**

(a) Any horse entered to start at any licensed race meeting may be subjected to a pre-race and/or post-race blood, and/or urine test, at the direction of the State Veterinarian, the Judges and/or State Steward, in the manner prescribed by the New Jersey Racing Commission. The costs so incurred shall be borne by the track association. The cost to the track association for testing each sample shall be established by the New Jersey Racing Commission.

(b) Every owner, or his authorized agent, or trainer of any horse entered to race at any licensed racetrack shall immediately submit the said horse to any veterinarian designated by the Commission, for examination and/or testing whenever so requested by the Commission, Stewards, Judges, State Veterinarians, or Associate State Veterinarian.

**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).

**13:71-23.3 Pre-race blood testing program**

(a) All horses entered to start in any race where pari-mutuel wagering is conducted shall be subject to a pre-race blood and/or urine test.

(b) Such horses shall be in the paddock at least two hours prior to post-time under the custody and care of a duly licensed attendant designated by the trainer of the horse.

(c) A licensed veterinarian approved by the Commission shall be the only person allowed to draw the blood for testing. A quantity of 20 cubic centimeters or such amount as the veterinarian may designate shall be extracted from each horse for testing purposes.

(d) Should the forensic analysis of such sample be classified as suspicious for any drug or substance foreign to the natural horse, except as expressly permitted by these rules and regulations, the horse shall be scratched.

(e) Should the forensic analysis of such sample be classified as positive for any drug or substance foreign to the

natural horse, the horse shall be scratched and placed on the judge's list for seven days.

(f) The entry of a horse shall constitute permission for a veterinarian appointed by the New Jersey Racing Commission to obtain biological samples, and consent to the scratching of the horse from the race in the event such test is positive or suspicious.

(g) A trainer shall receive a warning for the first time a horse in his charge shall show a positive pre-race test. If the same horse shall again be positive on a pre-race test, then the trainer may be fined, suspended or both.

**13:71-23.3A Post-race blood gas testing program**

(a) An excess level of total carbon dioxide (TCO<sub>2</sub>) in the race horse is deemed adverse to the best interests of harness racing, and adverse to the best interests of the horse in that such condition alters its normal physiological state. Accordingly, in compliance with the post-race testing program provisions of N.J.A.C. 13:71-23.4 and this section, on the date of the race and following a minimum one-hour standing at rest period for the horse subsequent to the conclusion of the race within which it competed, a State Veterinarian representing the Commission may obtain blood samples from the horse for the purpose of the testing of said samples by the Racing Commission laboratory for TCO<sub>2</sub> level on a Clinical Auto Analyzer that applies an ion selective electrode method (ISE) for measuring TCO<sub>2</sub> in blood. Where the TCO<sub>2</sub> level, based upon such testing equals or exceeds the following levels, the judges shall order the relief authorized pursuant to (b) below:

1. Thirty-seven (37) or more millimoles per liter for those horses not competing on furosemide; and

2. Thirty-nine (39) or more millimoles per liter for those horses competing on furosemide.

(b) Where the TCO<sub>2</sub> level in a horse is determined to equal or exceed the levels set forth in (a) above, and it is not determined that such TCO<sub>2</sub> levels are physiologically normal for that particular horse pursuant to (c) below, the judges shall order the following relief:

1. The trainer, as the absolute insurer of the horse responsible for the condition of a horse within his or her care and custody pursuant to N.J.A.C. 13:71-23.6, shall for a first violation have his or her license suspended for a 75 day period, be ordered to pay a \$1,000 fine and be denied the privileges of all grounds subject to the jurisdiction of the Commission during the suspension period. For a second violation, the license of the trainer shall be ordered suspended for a 180 day period, a \$2,500 fine shall be ordered and the trainer shall be denied the privileges of all grounds subject to the jurisdiction of the Commission during the suspension period. For a third or subsequent violation, the license of the trainer shall be ordered suspended for a minimum of one year to a maximum of licensure revocation, a \$5,000 fine shall be

ordered and the trainer shall be denied the privileges of all grounds subject to the jurisdiction of the Commission during the suspension period. The licensure suspension aspect of these penalties shall be increased by a minimum of two years where evidence independent of the testing demonstrates that the excessive TCO<sub>2</sub> level of the horse resulted from the administration of a drug or substance foreign to the horse in violation of N.J.A.C. 13:71-23.1 and that such foreign substance was administered nasogastrically or orally, using a tubing device, jug or by any intravenous means;

2. In addition to the liability of the trainer as set forth in (b)1 above, any additional persons responsible shall be subject to the penalties set forth in (b)1 above; and

3. Disqualification and denial of purse with redistribution of any purse money due, pursuant to N.J.A.C. 13:71-23.7; and

4. Pre-race guarded quarantine pursuant to N.J.A.C. 13:71-23.3B.

(c) If the level of TCO<sub>2</sub> is determined to equal or exceed those set forth in (a) above, and the licensed owner or trainer of that horse contends in writing to the judges within three calendar days of notification of the results that such levels are physiologically normal for the particular horse, said licensee may by such writing request that the horse be held in guarded quarantine. In the event so requested, the track association shall make such guarded quarantine available, for a period of time to be determined by the judges but in no event more than 72 hours, at the sole expense of the licensee requesting same. During any quarantine, the horse shall be re-tested periodically and, although the horse may not race during such quarantine period, it may be exercised and trained at times prescribed by the track association and consistent with the ability to monitor the horse, take blood samples from the horse and test those blood samples of said horse. If the judges are satisfied, on the basis of the evident facts, the quarantine and the testing of the horse's blood during the quarantine period utilizing the Clinical Auto Analyzer, that the level of TCO<sub>2</sub> set forth in (a) above is physiologically normal for that particular horse, the judges shall not order the relief set forth in (b) above and the horse shall be permitted to compete. In such case, the judges in their discretion may, at the sole expense of the track association, require that the horse re-establish that such TCO<sub>2</sub> level is physiologically normal to it pursuant to the quarantine procedure set forth in this subsection but no sooner than 45 days after the last quarantine period for the purpose of such re-establishment.

(d) All persons participating in any blood gas testing program or quarantine process as described in this section, whether an employee of the Racing Commission or a track association, shall act at the direction of the Commission representative as designated by the Commission or its Executive Director. The taking of blood samples from a horse, as authorized by this section for the purpose of testing on the Clinical Auto Analyzer, shall be additional to and not in lieu of any other sampling or testing of blood or urine authorized by this chapter. For the purposes of this section, as well as N.J.A.C. 13:71-23.3B and 23.3C, a violation of this section on or after October 18, 1993 shall constitute a prior violation.

New Rule, R.1993 d.174, effective April 19, 1993.

See: 25 N.J.R. 269(a), 25 N.J.R. 1775(b).

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

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

Substantially amended section.

### **13:71-23.3B Post-race blood gas testing program; pre-race guarded quarantine**

(a) Where a trainer, during any 12 month period, has had any single horse under his or her custody, care and control test equal to or in excess of the total carbon dioxide level (TCO<sub>2</sub>) set forth in N.J.A.C. 13:71-23.3A(a), and where the level of TCO<sub>2</sub> has not been determined as physiologically normal for the horse in such instance pursuant to N.J.A.C. 13:71-23.3A(c), that horse subsequently scheduled to participate in a race under the custody, care and control of said trainer shall be placed under pre-race guarded quarantine. The track association sponsoring the race shall make such pre-race guarded quarantine available, at the sole expense of the trainer, for a length of time to be determined by the judges but in no event less than six hours prior to the start of the first race of the program.

1. Any pre-race guarded quarantine required by this subsection shall continue as to the affected horse for six months following the date of the order of quarantine.

(b) Where a trainer, during any 12 month period, has had any horse or horses under his or her custody, care and control test equal to or in excess of TCO<sub>2</sub> level set forth in N.J.A.C. 13:71-23.3A on two occasions, and where the said level of TCO<sub>2</sub> has not been determined as physiologically normal for the horse in either of such instance, all horses subsequently scheduled to participate in a race under the custody, care and control of that trainer shall be placed under pre-race guarded quarantine. The track association sponsoring the race shall make such pre-race guarded quarantine available, at the sole expense of the trainer, for a length of time to be determined by the judges but in no event less than six hours prior to the start of the first race of the program.

**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).

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. *Calagiron v. New Jersey Racing Commission*, 92 N.J.A.R.2d (RAC) 7.

**13:71-23.7 Penalties**

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

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

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

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

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

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

**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).

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

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

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

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

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

4. The owner and trainer of the horse shall be notified by the Board of Judges in writing of: the initial positive test result for elevated titers of anti-recombinant human EPO antibody; that a hearing will be afforded by the Board of Judges, following written request to them, at which hearing the owner and/or trainer of the horse can challenge the validity of the positive results of the Racing Commission Equine Testing Laboratory, and that the horse is not per-

mitted to race until the terms of (b) below are satisfied, unless the results of any requested hearing demonstrates to the satisfaction of the Board of Judges that the horse was negative for elevated titers of anti-recombinant human EPO antibody as a result of the initial anti-recombinant human EPO antibody test. In the latter case, the Board of Judge's shall remove the horse from the Steward's list and the horse shall be permitted to race.

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

(c) Any horse claimed from a race pursuant to N.J.A.C. 13:71-14, Claiming, shall have its blood tested for elevated titers of anti-recombinant human EPO antibody. The successful claimant shall have the option to void the claim should the claimed horse test positive with the anti-recombinant human EPO antibody test.

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

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

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

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

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

(b) Racing Commission representatives may, without prior notice, appear upon off-track stabling facilities and permitted racetrack facilities subject to its jurisdiction, in furtherance of out-of-competition testing, that is, for the purpose of taking blood samples from racehorses on race days (pre-race) or on non-race days to test such samples (on the same date the sample is taken, or on a subsequent date) for the presence of Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agents. Upon arrival at such premises and if present, the Racing Commission shall advise the facility's owner, and the trainer of the racehorse or racehorses from which blood samples are to be taken, of its purpose. Additionally, the Racing Commission State Steward may require that any New Jersey licensed trainer stabled within New Jersey, at his or her cost, produce at a permitted New Jersey racetrack (as designated by the State Steward), and within 24 hours of a State Steward request, any racehorse under his or her custody and control for out-of-competition testing. Additionally, the State Steward may require that any New Jersey licensed trainer stabled outside this State, at his or her cost, produce at a permitted New Jersey racetrack (as designated by the State Steward), and within 48 hours of a State Steward request, any racehorse under his or her custody and control (which racehorse or racehorses competed in New Jersey in the same calendar year of the request, or which racehorse was intended