

**13:71-21.4 Placing system**

If the placing system is specified in the conditions, the purse shall be distributed according to the standing of the horses in the summary. In order to share in the purse distribution, each horse must complete the race and compete in each heat to which he is eligible. A horse must win two heats to be declared the race winner and such horse shall stand first in the summary. In deciding the rank of the horses order than the race winner, a horse that has been placed first in one heat shall be ranked better than any other horse making a dead heat for first or any other horse that has been placed second any number of heats; a horse that has been placed second in one heat shall be ranked better than any other horse that has been placed third any number of heats, and so forth; for example, a horse finishing, 3-6 would be ranked ahead of another horse finishing 4-4. A horse finishing in a dead heat would be ranked below another horse finishing in the same position and not in a dead heat. If there be any premium for which no horse has maintained a position, it shall go to the race winner, but the number of premiums awarded need not exceed the number of horses that started in the race. Unless otherwise specified in the conditions, the money shall be divided 50 percent, 25 percent, 15 percent and 10 percent.

**13:71-21.5 Two in three**

In a two in three race, a horse must win two heats to win the race, and there shall be ten percent set aside for the race winner. The purse shall be divided and awarded according to the finish in each of the first two or three heats, as the case may be. If the race is unfinished at the end of the third heat, all but the heat winners or horses making a dead heat for first shall be ruled out. The fourth heat, when required, shall be raced for the ten percent set aside for the winner. If there be any third or fourth premiums, and so forth for which no horse has maintained a specific place, the premium therefor shall go to the winner of that heat, but the number of premiums distributed need not exceed the number of horses starting in the race. Where, in a two-year-old race, there are two heat winners and they have made a dead heat in the third heat, the race shall be declared finished and the colt standing best in the summary shall be awarded the ten per cent; if the two heat winners made a dead heat and stand the same in the summary, the ten per cent shall be divided equally between them.

**13:71-21.6 Computation and payment of purses**

(a) Any racing association which has an agreement with the horsemen to pay purses of an established percentage of the association's share of the revenue obtained from the money wagered, shall each post a statement of the previous week's handle, the proposed allotment to horsemen and the amount of purses paid. Such posting shall be on the bulletin board in the entry room.

(b) Any association sponsoring stakes races or early closing events may withhold, during any current meeting, an amount sufficient to compensate the association for the cost of such races and events. However, in no event shall the money due the horsemen in purses above that amount be allowed to exceed \$20,000.

**13:71-21.7 Delivering of winnings to owners**

Winnings from horses shall not be delivered to any owner until the owner has first been duly licensed by the Commission for the current season.

**13:71-21.8 Deductions from winnings**

(a) All purses contested for shall be distributed according to the conditions of the race. Deductions from the purse, either voluntary or involuntary, shall be made only as set forth herein. Deductions shall be made for payment to the owners and to collect the amount calculated by the New Jersey Horse Racing Injury Compensation Board, which shall not exceed three percent of gross overnight purses paid to owners, as assessments for the cost of workers' compensation insurance coverage pursuant to N.J.A.C. 13:71-6.31 and the rules of the New Jersey Horse Racing Injury Compensation Board set forth at N.J.A.C. 13:73. Deductions from purses may also be made to pay the organization and promotion expenses stipulated for stake and futurities.

1. The horsemen's bookkeeper at each racetrack in New Jersey shall transmit on a weekly basis all assessments collected for the cost of workers' compensation insurance or self-insurance coverage to the New Jersey Racing Commission, which shall deposit these monies in a separate account for the use of the New Jersey Horse Racing Injury Compensation Board.

(b) Five percent of the owners' payment shall be deducted and paid to the driver, and five percent of the owners' payment shall be deducted and paid to the trainer. In instances where the trainer is employed by a training stable, the payment shall be made to the training stable.

Amended by R.1978 d.354, effective January 1, 1979.  
See: 10 N.J.R. 348(b), 10 N.J.R. 510(c).  
Amended by R.1987 d.464, effective January 20, 1987.  
See: 18 N.J.R. 1516(a), 19 N.J.R. 237(a).

Substantially amended.  
Amended by R.1997 d.50, effective February 3, 1997.  
See: 28 N.J.R. 4737(a), 29 N.J.R. 448(a).

In (a), inserted text "the New Jersey Horse Racing ... N.J.S.A. 34:15-129 et seq."; and added (a)1.

Administrative correction.  
See: 31 N.J.R. 1204(b).  
Amended by R.2000 d.35, effective January 18, 2000.  
See: 31 N.J.R. 3050(a), 32 N.J.R. 322(a).

Rewrote the section.  
Amended by R.2002 d.70, effective March 4, 2002.  
See: 33 N.J.R. 3626(a), 34 N.J.R. 1020(a).

In (a), amended the N.J.A.C. references in the introductory paragraph.

**13:71-21.9 Forfeits; drivers' fees**

In the event that a purse is forfeited through a subsequent ruling of the officials and/or Racing Commission after the result has been made official, the drivers shall be allowed such fees as are consistent with section 8 of this subchapter and with the revised order of finish.

R.1978 d.354, eff. January 1, 1979.  
See: 10 N.J.R. 348(b), 10 N.J.R. 510(c).

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**SUBCHAPTER 22. RADIOS, RECEIVERS AND TRANSMITTERS**
**13:71-22.1 Telephone**

All public telephones at the race track may remain open during the race day, with the approval of the Commission.

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

"Track police" changed to "track security".  
Repeal and New Rule, R.1990 d.535, effective November 5, 1990.  
See: 22 N.J.R. 2403(b), 22 N.J.R. 3385(d).

Former rule contained radio, receiver and transmitter security requirements.

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**SUBCHAPTER 23. MEDICATION AND TESTING PROCEDURES**
**13:71-23.1 Intent of medication rules; general provisions**

(a) It shall be the intent of these rules to protect the integrity of horse racing, to guard the health of the horse, and to safeguard the interests of the public and racing participants through the prohibition and/or control of all drugs and/or substances foreign to the natural horse. For the purpose of these rules, a drug and/or substance administered to a horse is foreign to the natural horse irrespective of whether the said drug and/or substance is also naturally occurring to the horse.

(b) On the day of the race, irrespective of the date, time and method of administration, no horse entered to start in or participating in any race shall carry in its body any drug and/or substance foreign to the natural horse, excepting external rubs and innocuous compounds as defined in this section and as otherwise provided for in these rules. Examples of drugs and/or substances foreign to the natural horse, and thus prohibited pursuant to this section and these rules are as follows:

1. Articles meeting the definition of drug as set forth in N.J.A.C. 13:71-4.1;
2. Chemical substances;
3. Stimulants;

4. Depressants;
5. Anesthetics;
6. Tranquilizers;
7. Anti-inflammatories;
8. Erythropietin (epogen, EPO);
9. Pain killers;
10. Sodium bicarbonate (baking soda);
11. Confectionery sugar;
12. Stamina builders; and
13. Mixtures, compounds or solutions commonly referred to as "milkshakes" which contain any prohibited drug and/or substance.

(c) Nothing contained in this section, however, shall be construed to prohibit the horse from carrying in its body on the day of the race food products resulting from the normal and proper diet of a horse not containing prohibited drugs and/or substances.

(d) On the day of the race, except as otherwise provided for in these rules, no horse entered to start in or participating in any race shall have administered to it any such drug and/or substance foreign to the natural horse, including as a result of administration of an otherwise permissible external rub or what would otherwise constitute an innocuous compound. In no event, except for the intravenous administration of furosemide (Lasix) pursuant to N.J.A.C. 13:71-23.8, or as may otherwise specifically be authorized by or pursuant to these rules, shall the administration of said excepted items be accomplished intravenously, by injection, by jugging or drenching, or through the use of a syringe or sharp, dose syringe, or tube apparatus. A non-prohibited external rub or innocuous compound as defined in this section shall on the day of the race be administered only by application on the exterior of the horse, except that food constituting the normal and proper diet of a horse not containing prohibited drugs and/or substances may be ingested by means limited to the natural intake of a horse without aid or the assistance of any device or apparatus.

(e) An external rub or innocuous compound is a single substance, mixture of substances or compound which does not contain any of the 13 examples of prohibited items as set forth in (b) above, or additionally, any other substance foreign to the natural horse which alters its normal physiological state.

Amended by R.1994 d.126, effective March 7, 1994.  
See: 25 N.J.R. 3104(a), 26 N.J.R. 1238(c).  
Amended by R.1995 d.296, effective June 5, 1995.  
See: 26 N.J.R. 1956(b), 27 N.J.R. 2244(a).

**Case Notes**

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

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

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

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

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.

1. Any pre-race guarded quarantine required by this subsection shall continue as to the affected trainer for eight months following the date of the second order of quarantine of a horse or horses under his custody, care and control, and without regard to whether those horses have been transferred to a new trainer. However, if during the eight month period any additional horse under the custody, care and control of the trainer is determined to have an excessive TCO2 level in accord with N.J.A.C. 13:71-23.3A, and where the level of TCO2 has not been determined as physiologically normal for the horse, the judges shall order that the eight-month pre-race guarded quarantine period as to all of the trainer's horses be extended for a length of time which they deem appropriate.

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

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

New Rule, R.1993 d.513, effective October 18, 1993.  
See: 25 N.J.R. 3427(a), 25 N.J.R. 4751(b).  
Amended by R.1997 d.127, effective March 17, 1997.  
See: 29 N.J.R. 95(a), 29 N.J.R. 901(b).

Substantially amended section.  
Petition for Rulemaking.

See: 34 N.J.R. 1977(a), 3395(b), 3869(b).

#### Case Notes

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

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

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

New Rule, R.1993 d.513, effective October 18, 1993.  
See: 25 N.J.R. 3427(a), 25 N.J.R. 4751(b).  
Amended by R.1997 d.127, effective March 17, 1997.  
See: 29 N.J.R. 95(a), 29 N.J.R. 901(b).  
Substantially amended section.

#### 13:71-23.4 Post-race testing program; split urine or split blood samples

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

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

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

(d) For each horse to be tested, the State Veterinarian or a designated employee shall cause one sample of the horse's urine, or one or more samples of the horse's blood where the testing protocol is based on blood testing (hereinafter "blood sample"), to be sent to the Racing Commission laboratory. Following the testing of the urine or blood sample (hereinafter "primary sample"), any residue portion of the urine or blood sample taken (hereinafter "split sample") shall be preserved by the Racing Commission laboratory until either:

it is determined by said laboratory that the primary urine or blood sample is negative for a foreign substance; or, if the primary urine or blood sample is determined positive for a foreign substance, for 10 days following the issuance of written notification of such finding to the owner and trainer at their respective addresses as set forth in their current license applications on file with the Racing Commission. The owner or trainer, prior to the expiration of such 10-day time period, may request in writing to the Racing Commission's Executive Director that any split sample be sent to another laboratory for testing (hereinafter "outside laboratory"). The outside laboratory shall be selected by the requesting owner or trainer from a minimum of three appearing on a list of eligible laboratories to be previously approved by the Racing Commission. If no such request is timely made, upon expiration of the 10-day period, the Racing Commission laboratory shall properly dispose of any split sample and the findings of its testing shall be conclusive. If such a request is timely made, and if the entire primary sample was consumed during the Racing Commission laboratory testing process, the results of the Racing Commission laboratory testing on the primary sample shall be conclusive. If such a request is timely made, and a split sample remains, the Racing Commission laboratory shall cause the split sample or portion thereof to be delivered to the selected outside laboratory for testing. If the Board of Judges determines that the outside laboratory confirms substantially the Racing Commission laboratory findings, or that the split sample was not of sufficient quantity for the outside laboratory to conduct valid testing or to reach a valid testing conclusion, those findings of the Racing Commission laboratory shall be considered conclusive. If the Board of Judges determines that the outside laboratory does not confirm substantially the Racing Commission laboratory findings, any outstanding allegation or determined finding that the foreign substance in question was in the horse's system at the time of the subject race shall be dismissed. The owner or trainer requesting the testing of any split sample shall bear all costs related to the shipment and testing of same by the outside laboratory. The timely submission by an owner or trainer of a request for split sample testing shall not result in a deferral or suspension of the implementation of the procedures set forth in N.J.A.C. 13:71-23.5.

(e) Nothing contained in (d) above shall be interpreted: to preclude the State Steward from initiating the procedure set forth in N.J.A.C. 13:71-23.5 upon notification of a positive urine or blood test by the Racing Commission laboratory; or to preclude the holding of an initial hearing with respect to an alleged violation of this subchapter where a request for testing of the split sample has been timely made and the results

of testing by the outside laboratory are pending. However, where in such circumstances an appeal of any initial determined violation is filed pursuant to N.J.A.C. 13:71-3.4, a stay of any ordered penalty notwithstanding the provisions of N.J.A.C. 13:71-3.8 shall be issued pending receipt of the results of the outside laboratory testing. In the event the Board of Judges determines in such case that the outside laboratory does not confirm substantially the Racing Commission laboratory findings, and the determined violation is therefore dismissed pursuant to (d) above, any allegation or determination of a violation as a result of any search initiated pursuant to N.J.A.C. 13:71-23.5 shall not be affected.

Amended by R.1999 d.99, effective April 5, 1999.  
See: 30 N.J.R. 3759(a), 31 N.J.R. 888(a).

Added (d) and (e).

Amended by R.2001 d.356, effective October 1, 2001.

See: 33 N.J.R. 2018(a), 33 N.J.R. 3453(a).

Rewrote (d); in (e), substituted "23.5" for "3.8" preceding "shall not be affected".

Amended by R.2012 d.068, effective April 2, 2012.

See: 43 N.J.R. 2987(a), 44 N.J.R. 1122(a).

Section was "Post-race testing program; split urine sample". In (d), inserted ", or one or more samples of the horse's blood where the testing protocol is based on blood testing (hereinafter 'blood sample'),", inserted "or blood" throughout, and updated the N.J.A.C. reference; and in (e), inserted "or blood" and substituted "circumstances" for "circumstance".

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

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

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

**Case Notes**

Rule cited as example of Commission's reliance on conventional law enforcement services; denial of groom's license held arbitrary as the Re-habilitated 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).

ALJ erred in finding that a petitioner had established his suitability to be licensed in the capacity of driver/trainer because, even if petitioner was not personally responsible for inducing a horse's high Base Excess/TCO2 levels during a quarantine in Delaware, petitioner failed to carry out his duties as a trainer to protect the horses within his custody and control, as evidenced in petitioner's attempt to exculpate himself by testifying that anyone had access to the horse that day and could have "milkshaked" her; petitioner was strictly liable to protect and guard the horse against the administration of any drug or substances foreign to the natural horse (rejecting 2008 N.J. AGEN LEXIS 888). *Height v. N.J. Racing Comm'n (On Remand)*, OAL Dkt. No. RAC 02359-08S, 2009 N.J. AGEN LEXIS 854, Final Decision (March 4, 2009).

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

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

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

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

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

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

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

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

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

**13:71-23.7 Penalties**

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

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

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

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

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

**Case Notes**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. An application of a licensed off-track stabling facility, seeking Racing Commission approval to offer the administration of Lasix® at its facility, shall be in writing. In its written application to the Racing Commission, the burden shall lie with the off-track stabling facility to demonstrate by clear and convincing evidence that the administration of Lasix® at the off-track stabling facility will be accomplished in a manner consistent with maximum security and maximum integrity concerns. Within 90 days of its receipt of such application of a licensed off-track stabling facility, the Racing Commission at a public meeting and in its discretion shall determine whether or not to authorize the administration of Lasix® at the facility. In making such a determination, the Racing Commission will consider the suitability of the off-track stabling facility for the administration of Lasix®. In approving an off-track stabling facility for the administration of Lasix®, and at cost to the off-track stabling facility, the Racing Commission may impose such conditions as it deems appropriate, which may include, but not be limited to:

i. Requirements designed to enhance security and integrity concerns of the physical area of the off-track stabling facility where Lasix® administrations are proposed to occur;

ii. A requirement that the off-track stabling facility install video and audio equipment to enable the Racing Commission to monitor in real-time any Lasix® adminis-

trations and activity in the physical area of the off-track stabling facility where Lasix® administrations are proposed to occur;

iii. A requirement that the off-track stabling facility install video and audio recording equipment suitable to record any Lasix® administrations and activity in the physical area of the off-track stabling facility where Lasix® administrations are proposed to occur;

iv. The presence at the off-track stabling facility of suitable facsimile, computer hardware and computer software to insure proper recordkeeping and transmission of data to the Racing Commission concerning Lasix® administrations at the off-track stabling facility; and

v. Requirements that the equipment necessary for the administration of Lasix® to racehorses be present and be properly maintained at the off-track stabling facility.

6. If a horse is approved to receive Furosemide, the use of aminocaproic acid (AMICAR® injectable only) as an adjunct bleeder medication may be co-administered by a licensed veterinarian only when the horse receives Furosemide. Dose: AMICAR® injectable 10 ml (2.5 gram) I.V. four hours pre-race.

i. Veterinarians shall report that the horse was co-treated with AMICAR® on the Furosemide medication slip.

ii. The administration of AMICAR®, pursuant to this paragraph, is only approved through December 31, 2007.

(b) The State Veterinarian shall maintain a Bleeder List of all horses which have demonstrated external evidence of exercise induced pulmonary hemorrhage from one or both nostrils during or after a race or workout. Every confirmed bleeder, regardless of age, shall be placed on the Bleeder List and be ineligible to race for the following time periods:

1. For the first incident, the confirmed bleeder will be ineligible to race for 14 days;

2. For the second incident, the confirmed bleeder will be ineligible to race for 30 days;

3. For the third incident, the confirmed bleeder will be ineligible to race for 180 days; and

4. For the fourth incident, the confirmed bleeder will be barred from racing for its lifetime.

(c) For the purposes of counting the number of days a horse is ineligible to run, the day the horse bled externally is the first day of the recovery period. All horses on the Bleeder List who are eligible to race shall be administered furosemide before they can race. The voluntary administration of furosemide without an external bleeding incident shall not subject the horse to the initial period of ineligibility as defined by (b) above. A horse may be recommended for removal from the

Bleeder List only on the direction of the licensed, practicing veterinarian, who shall certify in writing to the Board of Judges the recommendation for removal. A horse, which has been placed on a Bleeder List in another jurisdiction pursuant to these rules, shall be placed on a Bleeder List in this jurisdiction.

(d) Post race urine and blood samples may be taken by or under the supervision of the State Veterinarian from all horses treated with Lasix<sup>®</sup> (furosemide) to control respiratory bleeding pursuant to the requirements set forth in (b) above. Post-race test results must show a detectable concentration of furosemide in the serum, plasma or urine sample taken from a furosemide treated horse. Quantitation of furosemide in serum or plasma shall be performed and concentrations may not exceed 100 nanograms of furosemide per milliliter of serum or plasma. In the event a post-race analysis of a blood sample reveals that the concentration of furosemide exceeds a level of 100 nanograms per milliliter of serum or plasma (100 ng/mL) or in the event that a post-race analysis of a blood or urine sample reveals no detectable concentration of furosemide, the trainer and other persons charged with responsibility, including, without limitation, licensed, practicing veterinarians, shall be liable to the penalties as set forth in (e) below.

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

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

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

1. The NSAID level does not exceed the following permitted serum or plasma threshold concentrations which are

consistent with administration by a single intravenous injection that follows the FDA-approved dose regimen for each product(s) at least 24 hours before the post time for the race in which the horse is entered:

- i. Phenylbutazone (or its metabolite oxphenylbutazone) - two micrograms per milliliter (two  $\mu\text{g/mL}$ );
- ii. Flunixin - 20 nanograms per milliliter (20 ng/mL);

2. Phenylbutazone and Flunixin are not to be administered within the 24 hours before post time for the race in which the horse is entered; and

3. The presence of more than one of the two approved NSAID or any unapproved NSAID(s) in the post-race serum or plasma sample is not permitted. The use of all but one of the approved NSAID shall be discontinued at least 48 hours before the post time for the race in which the horse is entered.

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

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

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

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

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

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

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

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

Amended by R.1988 d.183, effective April 18, 1988.  
See: 20 N.J.R. 250(a), 20 N.J.R. 912(c).

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

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

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

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

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

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

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

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

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

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

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

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

Revised (a)2.

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

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

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

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

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

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

Administrative correction.

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

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

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

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

Petition for Rulemaking.

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

Petition for Rulemaking: New Jersey Racing Commission; Notice of Action on Petition for Rulemaking: Administering Medication to Respiratory Bleeders.

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

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

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

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

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

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

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

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

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

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

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

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

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

#### Case Notes

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

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

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

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

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

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

**Case Notes**

Veterinarian's actions in giving a loaded hypodermic syringe to an assistant trainer and instructing him to give an injection to a horse, which horse later died, violated the prohibition, in N.J.A.C. 13:71-23.9, against anyone other than a veterinarian possessing such an item, as did the failure by the veterinarian and the head trainer, who was not even on the property at the time that the injection was given, to file an equine fatality report in compliance with N.J.A.C. 13:71-20.24. While the conduct of all three individuals was detrimental to racing within the meaning of N.J.A.C. 13:71-1.19 and sanctions were properly imposed, the lengthy suspensions imposed by the Racing Commission were too harsh and shorter suspensions were ordered by the Administrative Law Judge. *Henriksen v. N.J. Racing Comm'n*, OAL Dkt. Nos. RAC 7539-12, RAC 7540-12, and RAC 7541-12 (Consolidated), 2013 N.J. AGEN LEXIS 28, Initial Decision (January 31, 2013).

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

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

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

**13:71-23.10 Illegal devices**

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

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

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

**Case Notes**

Initial Decision (2005 N.J. AGEN LEXIS 394) adopted, which provided that trainer be permanently expelled from racing in New Jersey, denied the privilege of entering any track or premises licensed by the Commission, and fined a total of \$7,500. Ex parte proofs showed that trainer engaged in a clear course of conduct designed to result in performance reversals of horses in his care as a trainer, that he was observed giving horses injections and using other methods such as "milkshaking" to deliver performance enhancing drugs and substances, and it had been established that as a result of search of trainer at an off-

track stabling facility that he had in his possession not only performance-enhancing drugs, but also at least one controlled dangerous substance, testosterone. *Sheddan v. N.J. Racing Comm'n*, OAL Dkt. No. RAC 2400-04, 2005 N.J. AGEN LEXIS 1476, Final Decision (September 19, 2005).

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

Every association, all officials and employees thereof, and all persons licensed in any capacity by the Commission shall give every possible cooperation, aid and assistance to any department, bureau, division, officer, agent or inspector, or any other person connected with the United States Government or with the State of New Jersey, who may be investigating or prosecuting any matter involving a violation of any law, or any rules or regulations of the Commission.

**Case Notes**

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

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

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

**Case Notes**

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

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

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

(a) A determination by the Racing Commission Equine Testing Laboratory that a pre-race or post-race blood sample taken from a horse entered to start in a race pursuant to

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

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

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

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

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

(b) An owner or trainer whose horse has tested positive for elevated titers of anti-recombinant human EPO antibody may not request that its horse be retested until 21 days following the date of the initial positive test as reported by the Racing Commission's Equine Testing Laboratory. If any retest of the horse results in a Racing Commission determination that the horse is or remains positive with the anti-recombinant human EPO antibody test, the owner or trainer may not request that its horse be retested again until 21 days following the date of the last positive retest as reported by the Racing Commission's Equine Testing Laboratory. All requests after the initial positive test for the retesting of a horse shall be in writing and directed to the Board of Judges, accompanied by a \$50.00

payment for administrative and testing costs. Following receipt of a timely request for retesting, the production of the horse at a permitted racetrack premises in this State approved by the Board of Judges, and the receipt of the \$50.00 retesting fee, the Board of Judges shall direct the State Veterinarian to take a blood sample from the horse for the purpose of retesting.

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

or is intended to compete in New Jersey in the calendar year of the request), for out-of-competition testing. The State Steward may, in his or her discretion, and for good cause shown, extend these time frames for a trainer's requested production of the horse at a permitted New Jersey racetrack. In the event of the failure of any licensed New Jersey trainer or agent thereof to timely produce a racehorse for out-of-competition testing at a permitted racetrack facility as requested by the State Steward, or in connection with the Racing Commission's appearance on a premises subject to its jurisdiction for such purpose, the penalties set forth in (e) below shall be imposed upon the trainer and any responsible person where said failure to produce the horse is due to non-cooperation. Also, in the event of such non-production of a horse due the non-cooperation of the trainer and any other responsible person, the ineligibility restrictions as to the racehorse subject of the request for production, as set forth in (f) below, shall be imposed.

(c) In the event of a positive test for the presence of Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agent, as a result of out-of-competition testing, the following actions shall be taken by the Racing Commission Board of Judges:

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

2. The State Steward shall cause the horse to be immediately placed on the Steward's list pursuant to N.J.A.C. 13:71-16.8 (thereby rendering the horse ineligible to compete), pending the conduct of a hearing by the Board of Judges;

3. The owner and trainer of the horse shall be notified in writing by the Board of Judges, by personal service or by mail sent to the address listed in their respective applications on file with the Racing Commission, of the initial out-of-competition testing result and of the horse's placement on the Steward's list pending the conduct of a hearing by the Board of Judges. The writing shall further set forth, in a designated space, the date it was mailed or personally served by the Board of Judges; and

4. The Board of Judges shall schedule a hearing, by written notice to the trainer and any other responsible person, which hearing notice sets forth the alleged violations of the Racing Commission's rules, as well as the date and time of the hearing. The hearing notice may be incorporated into the written notice provided pursuant to (c)3 above. Where the owner of the horse is not a subject of the hearing, the owner shall be provided a copy of the notice of hearing as an interested party. The written notice of hearing shall be by personal service or by mail sent to the address listed in their respective applications on file with the Racing Commission.

(d) In the event a violation of this section is determined, following the conduct of a hearing by the Board of Judges pursuant to (c)4 above, the trainer of the horse subject of the violation shall, within five days of the issuance of the related ruling, provide the State Steward with \$2,000 as reimbursement to the Racing Commission for the administrative and testing costs associated with the initial positive test. In the event the positive test result finding is appealed, and in the event such appeal results in a final determination that no violation was committed, the \$2,000 shall then be returned to the trainer.

(e) In the event a violation of this section is determined, following the conduct of a hearing by the Board of Judges pursuant to (c)4 above, the license of the trainer, as the absolute insurer of the horse pursuant to N.J.A.C. 13:71-23.6, and any other responsible person, shall be suspended by the Board of Judges for 10 years for a first violation. In addition, said trainer and any other responsible person shall be fined \$50,000 for a first violation, and shall be prohibited from appearing upon or at any premises subject to the Racing Commission's jurisdiction for the 10-year license suspension period. For a second violation, the penalty of license revocation shall be imposed. A person whose license has been revoked, as a result of a violation of this section, shall permanently be prohibited from licensure in any capacity and from appearing upon or at any premises subject to the jurisdiction of the Racing Commission. Where a violation of this section is determined, the ineligibility period as to the horse, as set forth in (f) below, shall also be imposed by the Board of Judges. Such ineligibility period shall be calculated to begin running on the date the horse was placed on the Steward's list pursuant to (c)2 above. Where no violation is determined, as a result of the conduct of a hearing by the Board of Judges, the horse shall be promptly removed from the Steward's list and shall then be eligible to compete in racing.

(f) In the event a violation of this section is determined, following the conduct of a hearing by the Board of Judges pursuant to (c)4 above, a horse determined to test positive for the presence of Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agent shall be ineligible to compete in racing in this State for a period of 120 days. Following said 120 day period of ineligibility, the horse which tested positive shall continue to be ineligible to compete in racing in this State until: following a written request to the Racing Commission State Steward by the owner or trainer of the horse and the production of that horse for testing (at cost to the requesting party and at a location determined by the State Steward) accompanied by a \$2,000 payment for administrative and testing costs payable to the Racing Commission, the horse is determined by the Racing Commission to test negative for the presence of Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agents; and said horse is determined by the Racing Commission to test negative for elevated titers of anti-recombinant human EPO antibody, pursuant to the testing methodology set forth at N.J.A.C. 13:71-23.14(b). Where such testing results in a determination

that the horse either tests positive for presence of Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agent, or for elevated titers of anti-recombinant human EPO antibody, the owner or trainer may not request that the horse be retested until 21 days following the date of the last positive retest as reported to the Racing Commission by the Racing Commission's Equine Testing Laboratory. In the event of any such retest, and subject to payment of the requisite administrative and testing costs (that is, \$2,000) to the Racing Commission, the horse shall be retested for the presence of Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agents, and for elevated titers of anti-recombinant human EPO antibody.

(g) A horse which tests positive for the presence of Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agent, as a result of out-of-competition testing, remains subject to the requirements of (f) above despite its being sold, or otherwise transferred.

(h) 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 the out-of-competition testing authorized pursuant to this section.

(i) Nothing contained in this section shall be construed to disallow the Racing Commission to conduct post-race blood testing (that is, sampling of a horse's blood on race day following the race, for testing on that same date or on a subsequent date) for Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agents, pursuant to post-race testing otherwise authorized by this chapter. See N.J.A.C. 13:71-23.4. In the event of a positive test for the presence of Erythropoietin (Epogen, EPO), DarbEPO, or other blood doping agent, as a result of post-race testing, the procedures set forth in (c) above, as well as the provisions of (d) though (f) above, shall apply and the penalties, testing costs and horse ineligibility criteria set forth in this section shall therefore be imposed. In the event of such a positive, determined as a result of post-race testing, any purse won by the offending horse would be forfeited pursuant to N.J.A.C. 13:71-23.7.

New Rule, R.2007 d.334, effective October 15, 2007.  
See: 39 N.J.R. 2603(a), 39 N.J.R. 4420(b).

### 13:71-23.16 Anabolic steroids

(a) The administration of anabolic steroids to horses that race shall be a prohibited practice except as authorized in (c) below.

(b) Any horse entered to start at a permitted race meet may be subjected to a blood and urine test in order to identify the presence and/or levels of anabolic steroids.

(c) Tests results identifying the presence of boldenone, nandrolone, stanozolol and testosterone shall not constitute a violation of this section if the level of these permitted anabolic steroids test at or below the following level in blood plasma:

Boldenone - 200 picograms/milliliter (200 pg/mL);

Nandrolone - 200 picograms/milliliter (200 pg/mL);

Intact Male Horses: 500 picograms/milliliter (500 pg/mL);

All Other Horses: 200 picograms/milliliter (200 pg/mL);

Stanozolol - 200 picograms/milliliter (200 pg/mL);

Testosterone-

Intact Male Horses: 2,000 picograms/milliliter (2,000 pg/mL);

All Other Horses: 200 picograms/milliliter (200 pg/mL).

For the purposes of this section, "intact male horse" shall mean a male horse that has not been gelded.

(d) Any blood samples containing one of the four anabolic steroids listed in (c) above that quantitatively measures above the threshold levels shall constitute a violation of this section. Any samples identifying the presence of more than one of the four permitted anabolic steroids shall constitute a violation of this section regardless of the levels identified in the sample. Any samples identifying the presence of one of the four permitted anabolic steroids, even if it tests at or below the threshold level, shall constitute a violation of this section if the samples also indicate the presence of any other anabolic steroid.

(e) The split sample testing procedures set forth in N.J.A.C. 13:71-23.4 in connection with urine samples shall be extended to apply to blood and/or urine samples taken in connection with testing for anabolic steroids.

(f) The trainer is the absolute insurer of the condition of all horses within his or her care and custody. For a first violation of this section, the trainer's license shall be suspended for a 45-day period, he or she shall be ordered to pay an \$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 of this section, the trainer's license shall be suspended for a 90-day period, he or she shall be ordered to pay a \$2,500 fine and be denied the privileges of all grounds subject to the jurisdiction of the Commission during the suspension period. For a third violation of this section, the trainer's license shall be permanently revoked and he or she shall be permanently denied the privileges of all grounds subject to the jurisdiction of the Commission.

(g) In addition to the liability of the trainer, any person licensed in any capacity by the Commission who is involved in the administration of anabolic steroids to a horse who tests in violation to this section shall be subject to penalties up to or equal to the penalties set forth in (f) above for trainers. Persons not licensed by the Commission who have been involved in the administration of anabolic steroids to a horse who tests in violation of this section shall be subject to penalties as determined by the Commission.

(h) Upon determining that a violation of this section occurred, the tested horse shall be disqualified from the race and denied the purse money, which shall be redistributed in accordance with N.J.A.C. 13:71-23.7(b). The horse shall be

declared ineligible to compete in any race in New Jersey for a period of at least 30 days after the date upon which the samples violating this section were taken. After the 30-day disqualification has been completed, no horse shall be allowed to enter a race or race until such time as the owner or trainer makes the horse available to the Commission for retesting and the samples taken are in compliance with this section. The trainer or owner who submits the horse for retesting shall bear all costs, as determined by the Executive Director, that are related to the collection and testing of the samples taken.

(i) The Commission shall commence testing for anabolic steroids pursuant to this section April 19, 2010. In recognition of the amount of time that horsemen may need to “wash out” their horses in order to return their metabolisms to the range of normal, the imposition of the penalties set forth in (f) and (g) above will begin on August 18, 2010, with the following exception. Any horse which tests in violation of the terms of this section between April 19, 2010 and August 17, 2010, shall be disqualified from the race and denied the purse money, which shall be redistributed consistent with N.J.A.C. 13:71-23.7(b). Consistent with (h) above, a horse that tests in violation of this section during the “wash out” period, shall be declared ineligible to compete in any race in New Jersey for a period of at least 30 days after the date upon which the samples were taken. After the 30-day disqualification has been completed, no horse shall be allowed to enter a race until such time as the owner or trainer makes the horse available to the Commission for retesting and the samples taken are in compliance with this section. The trainer or owner who submits the horse for retesting shall bear all costs, as determined by the Executive Director, that are related to the collection and testing of the samples taken.

(j) The trainer of a horse that was claimed outside of the State of New Jersey or purchased in a private sale in any state may request that the claimed horse be tested for the presence of anabolic steroids prior to entering that horse to race in New Jersey. The trainer who requests such testing shall bear all costs, as determined by the Executive Director, that are related to the collection and testing of the blood sample consistent with (h) and (i) above, a horse that tests in violation of this section shall be declared ineligible to compete in any race in New Jersey for a period of at least 30 days after the date upon which the samples were taken. After the 30-day disqualification has been completed, the horse shall not be allowed to compete until such time as the trainer makes the horse available to the Commission for retesting and the samples taken are in compliance with this section. Any trainer who fails to request this testing prior to entering a horse claimed outside of the State of New Jersey or purchased in a private sale to race and the horse tests positive for the presence of anabolic steroids in violation of this section, the trainer shall be liable for all penalties set forth in this section.

New Rule, R.2010 d.059, effective April 19, 2010.  
See: 41 N.J.R. 3384(a), 42 N.J.R. 804(a).  
Administrative correction.  
See: 43 N.J.R. 1205(a).

## SUBCHAPTER 24. AUTHORIZED AGENTS

### 13:71-24.1 License

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

### 13:71-24.2 License application

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

### 13:71-24.3 Powers of attorney

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

### 13:71-24.4 Changes

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

### 13:71-24.5 License fees

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

Amended by R.1990 d.126, effective February 20, 1990.  
See: 21 N.J.R. 3861(a), 22 N.J.R. 667(a).  
Fee increased from \$10.00 to \$25.00.  
Amended by R.1993 d.52, effective January 19, 1993.  
See: 24 N.J.R. 4023(a), 25 N.J.R. 314(b).  
Revised text.

### 13:71-24.6 Owner's revocations

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

### 13:71-24.7 Appointment of subagents

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

## SUBCHAPTER 25. VENDORS

### 13:71-25.1 Licenses

All persons, including the employees and agents thereof, who engage in the profession or business of selling, at retail or wholesale, or otherwise disposing thereof, of any kind of

merchandise, equipment, drugs or medication for animals or humans, or pharmaceutical horse food or nutrient of any kind, providing that such substances, or the sale or disposition thereof is not otherwise prohibited by law, shall be licensed by and be subject to the jurisdiction of the Racing Commission. All applicants for vendor license shall be recommended by the security officer of the track where application for license is made.

#### **13:71-25.2 Labelling drugs and medication**

All drugs, medications, pharmaceutical products and any other substances of a similar nature possessed or used within

the grounds of a racing association shall at all times bear appropriate labelling displaying the contents thereof.

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### SUBCHAPTER 26. ILLEGAL PRACTICES

#### **13:71-26.1 Bribes, gifts and gratuities**

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