

**JOCKEY AND DRIVER
WELFARE COMMITTEE**

Commissioner Chuck Winner, Chairman
Commissioner Bo Derek, Member
Kirk E. Breed, Executive Director

STAFF ANALYSIS
DISCUSSION AND ACTION REGARDING THE FEASIBILITY
OF SUBJECTING TO RANDOM DRUG TESTING, IN ADDITION
TO JOCKEYS AND DRIVERS, RACING OFFICIALS AND STEWARDS
WHOSE NAMES APPEAR ON THE OFFICIAL PROGRAM, AS WELL AS
OUTRIDERS, EXERCISE RIDERS AND STARTING GATE CREW

Jockey and Driver Welfare Committee Meeting
April 10, 2013

BACKGROUND

Business and Professions Code section 19420 provides that the Board has jurisdiction and supervision in this State where horse races with wagering on their results are held or conducted, and over all persons or things having to do with the operation of such meetings. Business and Professions Code section 19440 states the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of this chapter. Responsibilities of the Board include, but are not limited to, adopting rules and regulations for the protection of the public and the control of horse racing. Business and Professions Code section 19460 provides that all licenses granted under this chapter are subject to all rules, regulations, and conditions from time to time prescribed by the Board, and shall contain such conditions as are deemed necessary or desirable by the Board for the purposes of this chapter. Business and Professions Code section 19520 states every person who participates in, or has anything to do with the racing of horses shall be licensed by the Board pursuant to rules and regulations that the Board may adopt.

In 2011 the Board added Rule 1500.1, Random Drug Testing, to provide a framework under which California jockeys, apprentice jockeys and drivers may be subjected to random drug testing. The regulation states that jockeys, apprentice jockeys and drivers are subject to random drug testing as well as testing for cause and that failure to submit to or to complete a drug test constitutes a refusal to be tested. Jockeys, apprentice jockeys and drivers who refuse a drug test shall be automatically suspended, and not allowed to return to the racetrack until a negative test result is achieved. Rule 1500.1 states random drug testing will be conducted on an unannounced basis, before or after the performance of duties. Persons to be tested will be chosen from among jockeys, apprentice jockeys or drivers whose names appear on the official program the day random drug testing is conducted. The regulation requires the supervising investigator to draw nine names, and if a name is selected more than once during a race meeting, it shall be eliminated and another selection made. Representatives of the Jockey's Guild or California Harness Horsemen's Association may be present and witness the drawing of names. Rule 1500.1 provides for a split sample program, and a method of informing the jockey, apprentice jockey or driver if a confirmed positive finding of an illegal drug, controlled substance or prescription drug is reported. Jockeys, apprentice jockeys and drivers have the option of requesting the testing of the split sample provided he or she pays for the transporting and testing of the split. The results of the drug test and the split sample test are confidential and will remain confidential unless or until the Board files an official complaint or accusation. Rule 1500.1 reserves the right to direct a jockey, apprentice jockey or driver to submit to a drug test by

methods including, but not limited to, blood, hair follicle or skin. This provides the Board with flexibility in testing methods should it determine it wishes to go beyond urine.

Other states that conduct random drug test include Delaware, Illinois and Louisiana. The Association of Racing Commissioners International Model Rules also includes a regulation that provides for drug testing. Of the states that provide for random drug testing Delaware allows testing of every licensee except owners. Illinois conducts random drug testing of jockeys, drivers, starters and outriders. Louisiana may test every licensee at any licensed racetrack. The ARCI Model Rule provides that all licensees who at the time of random drug testing are exercising the privilege of their license are subject to such testing.

ANALYSIS

When the Board added Rule 1500.1, it narrowed the focus of the regulation to jockeys, apprentice jockeys and drivers. The rationale was that jockeys and drivers were of particular concern in this area because of the physical and mental requirements of their profession. An impaired jockey or driver could be a recipe for injury to themselves, horses and others participating in a race. During discussions regarding the addition of Rule 1500.1, the Board indicated it would revisit the issue at a future date to determine if it wished to test additional classes of license. Rule 1500.1 addresses jockeys and drivers who must be able to control a horse during a race. The committee may wish to consider testing other licensees involved with exercising horses, or who handle horses before and after racing. These classes of license include the outrider, exercise riders and the starting gate crew. In addition to licensees who work with horses, there are those, such as racing officials, who are closely associated with the integrity of horse racing.

RECOMMENDATION

If the committee determines that additional classes of occupational license should be subject to random drug testing, staff recommends it consider adding a new rule rather than an amendment to Rule 1500.1, as the protocols with jockeys and drivers may be unique compared to other classes of license.

CALIFORNIA HORSE RACING BOARD
TITLE 4. CALIFORNIA CODE OF REGULATIONS
ARTICLE 4. OCCUPATIONAL LICENSES
RULE 1500.1. RANDOM DRUG TESTING

Jockey and Driver Welfare Committee Meeting
April 10, 2013

1500.1. Random Drug Testing.

(a) To ensure the safety and integrity of horse racing, jockeys, apprentice jockeys and drivers are subject to random drug testing, as well as testing based upon reasonable suspicion, as provided in this Division. Failure to submit to or to complete a drug test at the time, location, and manner directed by the Board or its representatives shall constitute a refusal to be tested. A jockey, apprentice jockey or driver who fails to submit to or to complete a drug test shall immediately be prohibited from riding or driving in any race at a facility under the jurisdiction of the Board until a negative test result is achieved.

(1) Random drug testing shall be conducted at the direction of the Executive Director on an unannounced basis before or after the jockey's or driver's performance of duties. The names of all jockeys, apprentice jockeys or drivers who appear on the official program the day random drug testing is conducted shall be placed in a secured container which shall be in the custody of the supervising investigator. Prior to the first race of the program, the supervising investigator shall draw nine names. If a name is selected more than once during a race meeting, it shall be eliminated and another selection made.

(2) Representatives of the Jockey's Guild or the California Harness Horsemen's Association may attend and witness the random selection of names.

(3) For race meetings with duration of up to five months, random drug testing shall occur at least once during the course of the meeting. For the purposes of this regulation, the Northern California fair circuit shall be considered as one race meeting.

(4) For race meetings with duration of six or more months, random drug testing shall occur at least twice during the course of the meeting.

(b) Each urine specimen received from a jockey, apprentice jockey or driver shall be divided into two separate parts. One portion shall be designated as the official jockey/driver test sample and shall be tested by a Board approved official laboratory. The remaining portion of the specimen shall be known as the jockey/driver split sample and shall be available for testing at a Board approved independent laboratory upon the request of the individual who provided the specimen. The Board makes no guarantees as to the amount of the specimen that will be available for the jockey/driver split sample. All specimens taken by representatives of the Board are under the jurisdiction of and shall remain the property of the Board at all times.

(1) For the purposes of this regulation "Board approved official laboratory" and "Board approved independent laboratory" means a California laboratory certified by the United States Department of Health and Human Services under the National Laboratory Certification Program as meeting the minimum standards to engage in urine drug testing for federal agencies. A list of certified laboratories shall be available at the CHRB headquarters office.

(2) Each urine specimen shall be tested for the following prohibited drugs or classes of drugs:

(A) Marijuana metabolites.

(B) Cocaine metabolites.

(C) Amphetamines.

(D) Opiate metabolites.

(E) Phencyclidine (PCP).

(c) The Board approved official laboratory shall immediately and confidentially report to the Executive Director or his designee any positive finding for any of the drugs or classes of drugs described in subsection (b)(2)(A) through (b)(2)(E) of this regulation. The Board approved official laboratory shall also transmit a confidential written report of the finding to the Executive Director within five working days after the notification is made.

(d) When the Executive Director or his designee is notified of a positive finding by the Board approved official laboratory, the Executive Director or his designee shall notify a supervising investigator. The supervising investigator shall confidentially notify the jockey, apprentice jockey or driver who shall:

(1) Immediately be prohibited from riding or driving in any race at a facility under the jurisdiction of the Board, and

(2) Shall have 72 hours from the date he or she is notified to request that the jockey/driver split sample of the official jockey/driver test sample that was found to contain a prohibited drug or class of drug, be tested by an Board approved independent laboratory.

(e) If the jockey, apprentice jockey or driver wishes to have the jockey/driver split sample tested, he or she shall comply with the following procedures:

(1) The request shall be made on the form CHRB-217 (New 3/11) Request to Release Jockey/Driver Split Sample, which is hereby incorporated by reference. Form CHRB-217 shall be made available at all CHRB offices, and at the CHRB website.

(2) The jockey, apprentice jockey or driver requesting to have the jockey/driver split sample tested shall be responsible for all charges and costs incurred in transporting and testing the jockey/driver split sample. By signing CHRB-217 the jockey, apprentice jockey or driver certifies he or she has made arrangements for payment to the designated independent Board approved laboratory for laboratory testing services.

(3) Verification of payment for costs incurred in transporting and testing the jockey/driver split sample must be received by the CHRB within five working days from the CHRB receipt of CHRB-217. If such verification of payment is not received, the jockey/driver split sample will not be released or shipped to the designated Board approved independent laboratory and the jockey, apprentice jockey or driver will have relinquished his/her right to have the split sample tested. If a complaint issues, the only test results that will be considered will be the results from the Board approved official laboratory.

(f) Upon receipt of a valid request on CHRB-217, CHRB-217A (New 3/11) Authorization to Release Jockey/driver Split Sample Evidence, which is hereby incorporated by reference, shall be completed and the Board shall ensure that the jockey/driver split sample is sent to the designated Board approved independent laboratory for testing.

(1) If the findings by the Board approved independent laboratory fail to confirm the findings of a prohibited drug or class of drug as reported by the Board approved

official laboratory, it shall be presumed that a prohibited drug or class of drug was not present in the official jockey/driver test sample.

(g) A jockey, apprentice jockey or driver who fails to request the testing of the jockey/driver split sample in accordance with the procedures specified in this rule shall be deemed to have waived his or her right to have the split sample tested.

(h) Unless or until the Board files an official complaint or accusation, results of the official jockey/driver test sample and the jockey/driver split sample shall be, and shall remain confidential. No test results may be released to any person or organization unless such release is explicitly required under this regulation. Only the Executive Director or the Executive Director's designee, the Board, and the jockey, apprentice jockey or driver shall receive the results.

(i) The Board may take into consideration the possession of a valid and current Medical Marijuana Program Identification Card issued in accordance with the Medical Marijuana Program of the California Department of Public Health in determining whether or not to file an official complaint or accusation against a jockey, apprentice jockey or driver who tests positive for marijuana metabolites.

(j) For the purposes of this regulation, random drug testing shall be accomplished by the taking of urine specimens; however, the Board retains the right to direct a jockey, apprentice jockey or driver to submit to a drug test by methods including, but not limited to, blood, hair follicle or skin.

Authority: Sections 19420, 19440 and 19520,
Business and Professions Code.

Reference: Sections 19440, 19520 and 19521,
Business and Professions Code.

Delaware

Title 3 Agriculture

1001 Thoroughbred Racing Commission

21.0 Substance Abuse or Addiction

21.1 Statement of Purpose

21.1.1 The rules in this part establish and describe requirements, criteria, standards and procedures designed to monitor, test for and ultimately control the use of alcohol and drugs by persons within the jurisdiction of the Delaware Thoroughbred Racing Commission. The purpose of these rules is to eliminate substance abuse and thereby enhance the safety, integrity and decorum of horse racing in the State of Delaware. The Commission shall promulgate administrative regulations for effectively preventing the use of improper devices, the administration of drugs or stimulants or other improper acts for the purpose of affecting the speed or health of horses in races in which they are to participate. The Commission is also authorized to promulgate administrative regulations for the legal drug testing of licensees. The Commission is authorized to contract for the maintenance and operation of a testing laboratory and related facilities, for the purpose of saliva, urine, or other tests for enforcement of the Commission's drug testing rules. The licensed persons or associations conducting thoroughbred racing shall reimburse the Commission for all costs of the drug testing programs established pursuant to this section. Increases in costs of the aforementioned testing program shall be reasonable and related to the expansion in the number of days of racing and the number of races held, the need to maintain competitive salaries, and inflation. The Commission may not unreasonably expand the drug testing program beyond the scope of the program in effect as of June 30, 1998. Any decision by the Commission to expand the scope of the drug testing program that occurs after an administrative hearing, at which the persons or associations licensed under 3 Del.C. §10121 consent to such expansion, shall not be deemed an unreasonable expansion for purposes of this section. The Commission, in addition to the penalties contained in 3 Del.C. §10125, may impose penalties on licensees who violate the drug testing regulations including the imposition of fines or assessments for drug testing costs.

21.2 Scope

21.2.1 These rules shall be deemed to apply to every licensed person and all employees of licensees within the jurisdiction of the Delaware Thoroughbred Racing Commission. Exception -- Owners who are licensees of the Commission are not subject to this part unless they are otherwise eligible as a result of holding another type of license.

21.3 Violations

21.3.1 It shall be a violation of the rules of racing, subjecting the offender to discipline by the Commission or its designee:

21.3.1.1 To possess, without a valid prescription, any controlled substance while on the premises of a horse racing enclosure within the jurisdiction of the Delaware Thoroughbred Racing Commission;

21.3.1.2 Any individual possessing or under the influence of a prescription medication shall produce for inspection a valid prescription for the medication within twenty-four (24) hours upon demand by the Commission or its designee. The failure to produce the prescription at this time constitutes a separate violation.

21.3.1.3 To be intoxicated or under the influence of alcohol or a controlled substance while on the premises of a horse racing enclosure within the jurisdiction of the Delaware Thoroughbred Racing Commission;

21.3.1.4 To engage in the illegal sale or distribution of alcohol or a controlled substance;

21.3.1.5 To possess any equipment, products or materials of any kind which are used or intended for the use of planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, possessing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled dangerous substance while on the premises of a horse racing enclosure within the jurisdiction of the Delaware Thoroughbred Racing Commission;

21.3.1.6 To refuse to submit to urine or drug testing, when notified that such testing is based upon a random drug testing procedure, or is based upon reasonable suspicion that the person to be tested is using drugs or alcohol, or is based upon actions which demonstrate that the individual is impaired.

21.4 Testing Procedures - General

21.4.1 At its discretion, the Commission or its designee may conduct random or episodic drug and/or alcohol testing, as well as testing based upon reasonable suspicion in order to ensure the safety, integrity and decorum of Delaware thoroughbred racing.

21.4.2 Any licensed person and all employees of licensees within the jurisdiction of the Delaware Thoroughbred Racing Commission, except as noted in Rule 21.2, may be subjected to a urine test, blood test or any other test approved by the Commission in a manner prescribed by the Delaware Thoroughbred Racing Commission. The failure to submit to such a test when requested to do so by the Commission or their designee shall subject the offender to discipline as provided in Rule 21.8.

21.4.3 No prior notice need be given as to the onset or cessation of random testing.

21.4.4 Testing based on reasonable suspicion will be conducted just before, during, or just after performance of duties when a supervisor or company official observes behavior or appearance that is characteristic of drug or alcohol misuse and/or has reasonable suspicion to believe the individual has violated the Commission's prohibitions on drug or alcohol use.

21.4.5 Random testing will be conducted on a random, unannounced basis just before, during or just after performance of duties. Names of individuals to be tested will be selected randomly. If a name is selected more than once in the same month, it will be eliminated and another selection will be made. If a name is selected and the individual cannot be tested within the month, the Commission may test the individual at another time. Once notified of a random test, an employee must proceed immediately to the test site.

21.4.6 Return-to-duty testing will be conducted when an individual has violated the Commission's prohibitions on drug or alcohol use and returns to duty.

21.4.7 Follow-up testing will be conducted after there has been a determination that an employee is in need of assistance in resolving problems associated with drug or alcohol misuse. Tests will be unannounced and conducted just before, during or just after the performance of duties. Follow-up testing may be extended for up to sixty (60) months following return to duty.

21.5 Testing Procedures - Urine and Blood Testing

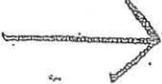
21.5.1 Any licensed person and all employees of licensees within the jurisdiction of the Delaware Thoroughbred Racing Commission, except as noted in Rule 21.2, who has been requested to submit to a test for the

presence of drugs or alcohol shall provide the requested sample without unreasonable delay to the designee of the Commission. The sample so taken shall be immediately sealed and tagged for identification. The sealing and tagging of the sample shall be witnessed by the individual tested. It shall be the obligation of the individual tested to cooperate fully with the representative of the Commission obtaining and securing a sample.

- 21.5.2 If a field screening test indicates the presence of alcohol or a controlled substance, the test results shall be confirmed by a laboratory acceptable to the Commission. When sample quantity permits, each test sample shall be divided into portions so that one portion may be used to confirm the field screening test and another portion may be used by the individual tested to obtain an independent analysis of the sample.
- 21.5.3 A portion of the test sample will be provided to a laboratory or testing facility, designated by the individual tested, when quantity permits, only upon written request. To protect the security of the chain of custody, the laboratory performing the initial test under Rule 21.5.2 will arrange for transportation of any remaining sample to the facility so designated by the individual for testing. All cost for the transportation and testing of the sample portion so provided shall be the financial responsibility of the requesting person. Payment for the costs of the transportation and testing of this portion of the sample shall be due from the individual tested within fifteen (15) days of the receipt of written notice of the costs.
- 21.5.4 Any individual may choose to submit to a blood test at a laboratory acceptable to the Commission instead of submitting to a urine test. An individual so choosing must announce the intention to forego the urine test and to obtain a blood test without delay, and proceed to the laboratory for the testing procedure.
- 21.5.5 If a field screening test has been performed, and the individual conducting the field test has reason to believe that the test results are inaccurate, the individual tested may be directed to submit to a blood test at a laboratory acceptable to the Commission.

ILLINOIS REGISTER
ILLINOIS RACING BOARD
NOTICE OF ADOPTED RULES

Section 508.50 Licensee Subject to Testing

- a) No licensee shall have present in his or her body, or possess or use on the grounds of any race track any controlled substance or any prescription drug unless the substance was obtained directly, or pursuant to a valid prescription or order, from a licensed physician, while acting in the course of his or her professional practice.
- b) Each licensee at a race track or other facility under the jurisdiction of the Board may be subject to a drug ~~test at any time~~ while within the enclosure of any race track or other facility at the direction of the Stewards or Executive Director or designee if there is individualized suspicion that a licensee is possessing or using any controlled substance or any drug in violation of any federal or State law.  This provision notwithstanding, specific categories of occupation licenses are subject to random drug testing pursuant to Section 508.80. Failure to submit to or complete a drug test at the time, location, and manner directed by Board personnel shall constitute a refusal to be tested. Any licensee who fails to submit to or complete a drug test shall be immediately suspended for no more than 30 days and shall not be allowed to participate at any race track under the jurisdiction of the Board until a negative test result is achieved. A licensee's refusal to test shall subject the licensee to the penalties in Section 508.60.
- c) Each specimen received from a licensee shall be divided into two separate parts. One portion designated as the referee sample, shall be available for testing upon the request of the individual who provided the specimen. The referee sample may also be tested by the laboratory with the consent of the individual who provided the specimen. The other portion of the sample shall be known as the laboratory sample and shall be tested by the laboratory. The cost of testing the referee portion shall be borne by the person requesting the additional test.
- d) After the specimen has been taken from a licensee and analyzed by an accredited laboratory approved by the Board, the laboratory shall make a ~~positive test finding~~. The Board shall consider both the initial test level and confirmatory test level for controlled substances or prescription drugs, pursuant to the Mandatory Guidelines for Federal Workplace Drug Testing (Substance Abuse and Mental Health Services Administration available at <http://www.workplace.samhsa.gov>) when determining a positive for a controlled substance that is included in the federal guidelines.

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- e) A confirmed positive for an illegal drug, controlled substance or prescription drug result shall be reported, in writing, to the Stewards. On receiving written notice from the laboratory that a sample has been found positive for an illegal drug, controlled substance or prescription drug, the Stewards shall notify the individual of the test results.
- f) Upon receipt of a notice of positive test finding, the stewards shall conduct an inquiry at which the individual with notice of a positive test finding shall have the opportunity to be heard. Further, any individual with notice of a positive test finding may challenge his or her particular test or test result by having a portion of the sample tested at the laboratory of his or her choice. Any individual contesting the tests or test results may request a hearing before the Board as set forth in 11 Ill. Adm. Code 204.

ILLINOIS REGISTER
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NOTICE OF ADOPTED RULES

~~Section 508.80 - Random Testing~~



- a) State racing boards and commissions in several states have promulgated regulations that subject racing participants to both breathalyzer and urinalysis tests by randomly selecting participants for such tests. The validity of this type of regulation was recently upheld in *Shoemaker v. Handel*, 3rd Cir. 1986) 795 F.2d 1136, affirming 619 F.Supp. 1089 (D.N.J. 1985).
- b) The Board finds, based on its experience and expertise in the regulation of racing, that random testing for alcohol and controlled substances will maximize the value of tests as a deterrent and will tend to reduce the adversarial nature of the test by treating all Jockeys, Drivers, Starters, Assistant Starters, and Outriders equally.
- c) As a supplement to the substance abuse testing program based upon individualized suspicion (as set forth in Sections 508.30 and 508.50 above), the Board hereby authorizes the limited use by the Stewards of both breathalyzer and urinalysis tests for Jockeys, Drivers, Starters, Assistant Starters, and Outriders who are selected by random. The names of all Jockeys, Drivers, Starters, Assistant Starters, and Outriders who appear on the official program as participants for a given race program for which testing is to be conducted shall be placed in a locked container which shall be secured by the stewards. The stewards for each racing program shall draw from the container the names of not more than five individuals for alcohol and drug testing. The name drawing shall be proximate to race time and a representative of the Jockey's Guild, the Illinois Horsemen's Benevolent and Protective Association, and the Illinois Harness Horsemen's Association shall be invited to attend the drawings and witness the random selections.
- d) The Jockeys, Drivers, Starter, Assistant Starters, and Outriders whose names are drawn at random must provide a urine sample to the stewards or their designee before the last race for that racing program. Any person selected at random who refuses to provide the sample or submit to a breathalyzer test shall be suspended.
- e) No Jockey, Driver, Starter, Assistant Starter, or Outrider shall be required to provide a urine sample on a random selection basis more than three times at a

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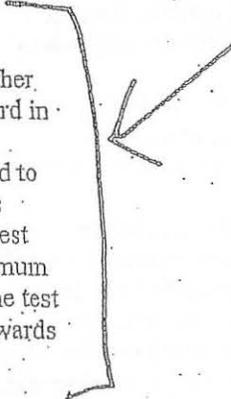
race meet. If the participant's name is drawn in excess of three times, the stewards shall disregard the selection, return the name to the container, and draw another name.

Louisiana Rule 1791

§1791, Testing for Dangerous Substance Abuse

A. No person licensed by the commission shall use any controlled dangerous substance as defined in the "Louisiana Controlled Dangerous Substance Act," R.S. 40:961, et seq., or any prescription legend drug, unless such substance was obtained directly, or pursuant to a valid prescription or ordered from a licensed physician, while acting in the course of his professional practice. It shall be the responsibility of the person licensed by the commission to give notice to the state steward that he is using a controlled dangerous substance or prescription legend drug pursuant to a valid prescription or order from a licensed physician. This notice shall be in the form of an affidavit provided by the commission and completed by the licensed practitioner. Failure to provide the state steward with the appropriate affidavit prior to the collection of a urine sample shall result in a positive violation and shall be administered pursuant to Subsection D. Failure of a licensed person to provide this affidavit from his doctor or physician within 10 days of being notified by the stewards of a finding for a prescription drug shall be treated as a positive and having the person subject to a penalty as contained herein.

B. Every person licensed by the commission at any licensed racetrack may be subjected to a urine test, or other noninvasive fluid test at the discretion of the state steward in a manner prescribed by the commission. Any licensed person who fails to submit to a urine test when requested to do so by the state steward shall be liable to the penalties provided herein. Failure or refusal to submit to a urine test when ordered by the state steward shall result in a minimum 90-day suspension. Failure or refusal to submit to a urine test for a second time shall result in a suspension by the stewards to the full extent of their power and referral to the commission:



C. Any person licensed by the commission who is requested to submit to a urine test shall provide the urine sample to a chemical inspector of the commission. When requested to provide a sample, that person shall submit the sample before leaving the race track. Failure to do so shall be considered a refusal. The sample so taken shall be immediately sealed and tagged on the form provided by the commission and the evidence of such sealing shall be indicated by the signature of the tested person. The portion of the form which is provided to the laboratory for analysis shall not identify the individual by name. In obtaining any sample, it shall be the obligation of the licensed person to cooperate fully with the chemical inspector who may be required to witness the securing of such sample. Anyone who tampers with a urine sample shall be fined and/or suspended as provided for by R.S. 4:141 et seq. and/or the

Rules of Racing.

D. A positive controlled dangerous substance or prescription drug result shall be reported in writing to the commission or its designee. On receiving written notice from the official chemist that a specimen has been found positive for a controlled dangerous substance or prescription legend drug, the commission or its designee shall proceed as follows.

1. The licensed person shall, as quickly as possible, be notified in writing and a hearing scheduled with the stewards.
 - a. If a person having tested positive for a dangerous substance or prescription drug so desires, he/she may request within five days to the stewards to have the split or referee sample tested by a commission-designated alternate laboratory as provided herein. At the time of the request, the licensed person must deposit with the stewards an amount equivalent to the fee charged by the referee laboratory chosen to cover expenses to be incurred in testing the split sample. Failure of a licensed person to make a request within five days constitutes a waiver of any and all rights to have the split sample tested.
 - b. Split samples shall be stored in a locked freezer pending the laboratory results of the original samples. If an original sample's result is negative, the split sample may be disposed of. However, if the result is positive, the split sample shall be retained in the locked freezer until needed or until final disposition of the case.
 - c. A licensed person's timely request for the testing of the split sample may then select any one of the commission-designated alternate laboratories to perform the testing.
2. For a licensed person's first violation, he shall be suspended 30 days and denied access to all racetracks, off-track wagering facilities and approved training facilities in Louisiana. His reinstatement shall be contingent upon evaluation by a commission approved board certified drug evaluator or counselor, and after providing a negative urine report.
3. For a licensed person's second violation, he shall be suspended six months and denied access to all racetracks, off-track wagering facilities and approved training facilities in Louisiana. His reinstatement may be allowed upon proof of enrollment, and continued attendance in a commission approved drug rehabilitation program.
4. For a licensed person's third violation, he shall be suspended for 15 years and denied access to all racetracks, off-track wagering facilities and approved training facilities in Louisiana.
5. The stewards and/or commission approved board certified drug evaluator or counselor may require urine/hair analyses or other noninvasive body fluid tests at any time during rehabilitation for reasonable cause.
6. Unexcused absences from a drug rehabilitation

program shall result in the participant being suspended for seven days from racing.

7. Excused absences from a drug rehabilitation program must be approved prior to the participant's absence by the commission approved drug evaluator or individual counselor.

8. Amphetamines and other central nervous system stimulants are not permitted except in cases of exogenous obesity. In those cases, the participant must give proof that multiple dietary attempts to control exogenous obesity have failed and that he is participating in a medically supervised dietary program which includes the short term (two to three weeks) usage of amphetamines.

E. Any information received in the process of obtaining a urine sample, including but not limited to, medical information, the results of any urine test, and any reports filed as a result of attending a drug rehabilitation program, shall be treated as confidential, except for their use with respect to a ruling issued pursuant to this rule, or any administrative or judicial hearing with regard to such a ruling. Access to the information received and/or reports of any positive results and/or reports from a drug rehabilitation program shall be limited to the commissioners of the Louisiana State Racing Commission, the commission and/or its designee, counsel to the commission and the subject, except in the instance of a contested matter. In the instance of a contested matter, any information received and reports prepared shall not be disclosed without the approval of the commission or its designee.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 13:289 (May 1987), amended by Department of Economic Development, Racing Commission, LR 15:620 (August 1989), LR 16:394 (May 1990), LR 17:172 (February 1991), LR 17:648 (July 1991).

ARCI MODEL RULES

CHAPTER 8: FLAT RACING LICENSING AND DUTIES OF LICENSEES

ARCI-008-010-GENERAL PROVISIONS

- H. Substance Abuse/Addiction
- (1) All licensees shall be deemed to be exercising the privileges of their license, and to be subject to the requirements of these rules, when engaged in activities that could affect the outcome of a race or diminish the conditions of safety or decorum required in restricted areas.
 - (2) It shall be a violation to exercise the privileges granted by a license from this Commission if the licensee:
 - (a) Is engaged in the illegal sale or distribution of alcohol or a controlled substance;
 - (b) Possesses, without a valid prescription, a controlled substance;
 - (c) Is intoxicated or under the influence of alcohol or a controlled substance;
 - (d) Is addicted, having been determined to be so by a professional evaluation, to alcohol or other drugs and not engaged in an abstinence-based program of recovery acceptable to the Commission;
 - (e) Has in his/her possession within the enclosure any equipment, products or materials of any kind which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled dangerous substance;
 - (f) Refuses to submit to urine or drug testing, when notified that such testing is based on a random drug testing procedure, is based on reasonable suspicion that the person is using drugs or alcohol or is based on the licensee's acting as if in an impaired condition; or
 - (g) Presently has drugs (controlled substances) or alcohol in his or her body. With regard to alcohol, the results of a breathalyzer test showing a reading of more than .05 percent of alcohol in the blood shall be the criterion for a finding of alcohol present in the body. With regard to other controlled substances, presence of the drug in any quantity measured by the testing instrument establishes the presence of the drug for purposes of this paragraph.
 - (3) At its discretion, the Commission may conduct random or episodic random drug testing, as well as testing based on reasonable suspicion, in order to ensure safety on the racetrack.
 - (4) When conducted, random drug testing shall apply, equally, to all licensees who are, at the time of the random testing, exercising the privileges of their license in such ways as may affect the outcome of a race or diminish the conditions of safety or decorum required in restricted areas.

- (5) No notice need be given as to onset or cessation of random testing.
- (6) For licensees who are tested under the provisions in this chapter, and whose testing shows the presence of drugs (controlled substances) or alcohol, any field screening test results shall be confirmed by a laboratory acceptable to the Commission which shall include Gas Chromatography/ Mass Spectrometry (GC/MS) procedures.
- (7) When the sample quantity permits, each test sample shall be divided into portions so that one portion may be used for the confirmation procedure and another portion may be utilized by the licensee to obtain an independent analysis of the urine sample.
- (8) The Commission shall provide for a secure chain of custody for the sample to be made available to the licensee.
- (9) All costs for the transportation and testing for the sample portion made available for the licensee shall be the financial responsibility of the requesting person.
- (10) Payment shall be due from the requesting person within 30 days of receipt of notice of the costs.
- (11) A licensee penalized or restricted pursuant to this chapter shall retain rights of due process with respect to any determination of alleged violations which may adversely affect the right to hold a license.
- (12) If there has been a violation, under number 2 above, the following procedures will be followed:
- (13) The Commission may, at its discretion, order the licensee to obtain a professional assessment to determine whether there is a substantial probability that the licensee is dependent on, or abuses, alcohol or other drugs or the Commission may act on the information at hand.
- (14) Actions in the case of first violators may include revocation of the license, suspension of the license for up to six months, placing the violator on probation for up to 90 days or ordering formal assessment and treatment.
- (15) Treatment or assessment, if ordered, must meet the conditions given in numbers 16-18 below.
- (16) The license of the person may be revoked or suspended for a period of up to one year or a professional assessment of the person may be ordered by the Commission.
- (17) If a professional assessment indicates presence of a problem of alcohol or other drug abuse that is not treatable within the reasonably foreseeable future (360 days) the license may be suspended for a period of up to one year.
- (18) If a professional assessment indicates presence of a treatable problem of alcohol or other drug abuse or dependence, the Commission may order the licensee to undergo treatment as a condition of continuing licensure. Such treatment will be through a program or by a practitioner, acceptable to the licensee and the Commission. Required features of any program or practitioner acceptable to the Commission will be:
 - (a) Accreditation or licensure by an appropriate government agency, if required by state statute;
 - (b) A minimum of one year follow-up of formal treatment; and
 - (c) A formal contract indicating the elements of the treatment and follow up program that will be completed by the licensee and, upon completion, certified to the Commission

as completed. To effect the contract, the licensee will authorize release of information by the treating agency, hospital or individual.

- (19) For third-time violators, the violator's license may be revoked and the violator may be deemed ineligible for licensure for up to five years.
- (20) Although relapse (failure to maintain abstinence) is not inevitable, it is common for relapse to occur in recovery from alcoholism or other substance dependence. Therefore, a licensee who is engaged in a formal program of recovery, and is compliant with all provisions other than abstinence, will not be regarded automatically as having committed a new violation.
- (21) When a licensee is determined to have failed in maintaining abstinence, the licensee shall furnish to the Commission an assessment by the treating agency, hospital or individual practitioner indicating whether the licensee was compliant with the agreed upon program of recovery, and an opinion as to whether a "new violation" occurred.
- (22) The Commission will determine whether a new violation has occurred in each instance. If a new violation has occurred, the Commission will proceed under numbers 13-15 above or numbers 16-18 above. Otherwise, the licensee shall continue in the agreed upon program of recovery.

Arizona Horse Racing Commission.

R19-2-112. Prohibited Acts

15. Test samples.

b. Human testing

- i. As set forth in A.R.S. § 5-104(C) and R19-2- 112(8) and (10), a licensee shall immediately submit to blood, urine, breath, or other tests ordered by the stewards, if the stewards have reason to believe the licensee is under the influence of or in possession of any prohibited substance or has consumed alcohol in violation of subsection (8) or (10) of this Section.
- ii. A licensee shall provide a test sample in the presence of a steward or the steward's designee, submitted in a container furnished by the Department and immediately sealed by the steward or steward's designee in the presence of the licensee being tested.
- iii. The steward or steward's designee shall mark the container with the following items: sample identification number; time, date, and location where the sample was given; and the signature of Department personnel sealing the container.
- iv. The steward or steward's designee shall submit the container to a Department-approved laboratory for analysis.
- v. If laboratory analysis indicates the positive presence of any prohibited substance or alcohol in the tested licensee's sample, the licensee may be subject to license suspension or revocation or civil penalties, as set forth in R19-2- 121(E)(3)(f) and A.R.S. § 5-108.05(A).
- vi. Test results and information obtained during the testing process are accessible only to members of the Commission, the Director or designees of the Director, and the tested licensee. The Department shall keep the information in a locked, secured area of the Department office.
- vii. The steward's or designee's compliance with these rules constitutes prima facie evidence that the chain of custody of the test samples is secure. The presiding officer in an administrative proceeding of the Department or Commission shall admit the results of such tests.

New York State Racing and Wagering Board

4042.5. Use of drugs.

- (a) No person while on the grounds of a licensed or franchised track, who is licensed as trainer, assistant trainer, jockey, apprentice jockey, exercise rider, assistant starter, outrider, groom, valet, pony-horse rider, or anyone who is riding a horse in a race, a warm-up for a race or riding on a horse anywhere on the grounds, or anyone who aids or participates in the preparation of a race or a horse for a race, or is licensed by the board, shall have present within the body of such person any controlled substance listed in schedules I through V of section 3306 of the Public Health Law, unless advance permission to ride a horse or participate in any manner in a race, while using such substance, pursuant to prescription by a licensed physician, has been granted in writing by the board.
- (b) Every such person, which includes all licensees, shall, upon the request of a steward or paddock judge, deliver a specimen of urine or subject himself to the taking of a blood sample by a licensed physician, as directed by such official. Failure by such person to provide such sample as so directed shall be a violation of these rules and subject such person to fine and license suspension. In addition, in no event shall any person ride or participate in any manner in the administration of or in any race, and/or the preparation of a horse for a race, on the day such sample is requested until such specimen has been taken as directed.
- (c) In the event that analysis of a urine or blood sample, by the testing facility designated by the board, discloses the presence of a prohibited controlled substance, such fact shall be reported to the board, which shall schedule an immediate interview with such person, pending which such person shall not be permitted to ride or participate in any manner in any race. As a result of such interview, the board may restore full riding and/or license privileges to such person after such person has delivered a current sample for analysis, continue such temporary suspension of riding and/or license privileges pending receipt of the result of analysis of any sample directed to be taken at such interview, or take such other action as the board may deem appropriate, including fine, revocation, suspension or the conditioning of continued licensing upon the satisfactory enrollment in and completion of a drug treatment program or drug educational program designated by the board.
- (d) Disclosure of the results of analysis and other reports made in the course of enforcement of this section shall be treated as confidential insofar as is consistent with law.

STAFF ANALYSIS
DISCUSSION AND ACTION REGARDING THE
HEALTH AND SAFETY OF EXERCISE RIDERS

Jockey and Driver Welfare Committee Meeting
April 10, 2013

BACKGROUND

Business and Professions Code section 19481 provides that the Board shall establish safety standards governing the uniformity and content of the track base and racing surface, inner and outer rails, gates and gaps, turf, access and egress to the track, lighting for night racing, equipment for horse and rider, drainage, communications, veterinary services, medical and ambulance services, and other track facilities in order to improve the safety of horses, riders, and workers at the racetrack.

In early March 2013 an exercise rider and a jockey exercising a horse were injured at Santa Anita Park Race Track. The exercise rider was severely injured when the horse he had just finished exercising reared up on the main road leading back to the barns. He came off the horse, which then fell and rolled over him. The response was immediate, but the rider's injuries were severe enough to be considered life threatening. The following day, a licensed jockey exercising a horse was thrown when the horse suddenly bucked. She suffered a compound fracture and some knee damage. These recent incidents illustrate that health and concerns over licensees who work directly with horses extend beyond the jockey/driver. Exercise riders are subject to many of the same perils.

Under Board Rule 1501, Worker's Compensation Insurance Required, both riders should be covered under the trainer's policy, and will be eligible for payments of between \$490 and \$900 a week depending on earnings. The licensed jockey will also receive ongoing payments of \$250 as a member of the Jockey's Guild.

RECOMMENDATION

This item is presented for committee discussion and action.

DISCUSSION AND ACTION REGARDING THE
ABSENCE OF AN ONSITE PHYSICIAN AT
LOS ALAMITOS AND CAL EXPO
AND THE IMPACT THIS COULD HAVE ON THE
HEALTH AND WELFARE OF ITS RACING PARTICIPANTS

Jockey and Driver Welfare Committee Meeting
April 10, 2013

BACKGROUND

Business and Professions Code section 19481.3 provides that every racing association and racing fair licensed pursuant to this article shall maintain, staff and supply, an on-track first aid facility, that may be either permanent or mobile, and which shall be staffed and equipped as directed by the Board. A qualified and licensed physician shall be on duty at all times during live racing, except that this provision shall not apply to: (1) a quarter horse racing association if there is a hospital situated no more than 1.5 miles from the racetrack and the racetrack has an agreement with the hospital to provide emergency medical services to jockeys and riders, or (2) a harness racing association if there is a hospital situated no more than 2.5 miles from the racetrack and the harness racing association has an agreement with the hospital to provide emergency medical services to injured drivers.

During discussions regarding the development of a concussion protocol for jockeys, the need for a competent, licensed medical doctor to be present during live racing and on-call during training was raised. It was suggested that for a protocol to work it would be imperative to have a medical doctor on site for all racing. This would include the Los Alamitos Race Course and the Cal-Expo race track, which currently have exceptions under the Horse Racing Law. All other live race meetings have a licensed physician on duty in accordance with the statute. It was determined that the issue would be referred to a committee of the Board for further discussion.

RECOMMENDATION

This item is presented for committee discussion and action.