



**Delaware Thoroughbred Racing Commission
Minutes of DTRC Rules Committee Held On
November 5, 2014**

The Delaware Thoroughbred Racing Commission held a Workshop Meeting of the DTRC Rules Committee Wednesday, November 5, 2014, at 10:05 a.m., in the first floor of the Horsemen's Office, located on the grounds of Delaware Park, 777 Delaware Park Boulevard, Wilmington, Delaware 19804.

The following Commission members were present:

Richard A. Levine, Esq., Commissioner
Edward J. Stegemeier, Secretary/Commissioner

The following Commission members were absent

W. Duncan Patterson, Jr., Chairman
Henry J. Decker, Commissioner
Debra M. Killeen, Commissioner

The following individuals also were present:

John F. Wayne, DTRC, Executive Director
Andrew Kerber, Deputy Attorney General, Commission Counsel
Chris Sobocinski, Delaware Park, Racing Information Coordinator
John E. Mooney, Delaware Park, Executive Director of Racing
Jerome Doro, Delaware Park, Racing Secretary
G. Jack Houghton, DTRC, Chief Steward
Fritz Burkhardt, DTRC, Steward
Dr. John T. Peters, D.V.M., DTRC, Chief Commission Veterinarian
Jane Teichner, VMD, Commission Veterinarian
Michael Gorham, DTHA President
Bessie Gruwell, DTHA Executive Director
Robert E. Colton, Delaware Jockey's Association, Director
Pam Rash, DTRC, Administrative Asst. (Recoding Minutes)

1. WELCOME & CALL TO ORDER

At 10:37 a.m., John Wayne, DTRC Executive Director welcome everyone to the meeting being held to discuss proposed rule changes.

2. DISCUSSION AND REVIEW OF DTRC RULES AND REGULATIONS

A. Summary Suspension

Jack Houghton started the meeting with a discussion on Summary Suspensions. The Stewards currently do not have a rule for Summary Suspensions. Have been working under Rule 3.4.1.4. Summary Suspension is suspension pending a hearing to be held within 3 days.

Deputy Attorney General Andrew Kerber indicated Harness Racing has a rule that gives judges Summary Suspension power. Mr. Kerber suggested using the Harness rule and word it to fit the Thoroughbred rules. He will draft it and send to Jack Houghton for review.

Harness Racing Rule:

10.2.3 Summary Suspension

10.2.3.1 If the Board of Judges determines that a licensee's actions, other than those of a licensed Association, constitute an immediate danger to the public health, safety or welfare, the Board of Judges, may summarily suspend the license pending a hearing.

Commissioner Levine felt that it should not be limited to positive drug offenses, there are other issues; i.e. Brandishing a gun. Put in a conforming rule as 18.1.1.5. Mr. Houghton suggested adding the word "may". The language used by the ARCI is the same.

A proposal will be drafted and a written format will be presented at the January 14 DTRC meeting to be approved and implemented by April.

B. Stays

Commissioner Levine asked what the current procedure is. Mr. Houghton indicated there is no procedure. The request comes through the Stewards and is determined under Rule 3.4.1.4. There have been some Stays denied but the decision has never been questioned. Mr. Wayne mentioned that requests for Stays that have been granted are due to routine administrative matters not a heinous act.

Mr. Houghton's review of the various jurisdiction rules on this matter is that most jurisdictions follow the ARCI model rule of an Executive Director granting a Stay. Some jurisdictions need the whole Commission, some need the Executive Director & the Chairman to grant a Stay. Commissioner Levine indicated the ARCI rule does not establish a standard. Mr. Houghton indicated it does not make sense to allow the Stewards to grant a stay as they are the ones who issued the penalty.

Mr. Levine feels there is an interrelationship between a Stay and a Continuance. He likes the ARCI rule but would like the Stay to remain in place until the hearing. If a Continuance is requested, the Executive Director can suspend the Stay, depending on the circumstance. This creates more discourse with the individual and the Commission through the Executive Director. Mr. Wayne was fine with that.

DAG Kerber's concern with the last situation was the Stay being prolonged by granting a Continuance. This Commission should not have to wait because the individual picks a lawyer who has a conflict. It is likely there will be conflicts. Commissioner Levine felt that if there had not been a stay the person would have probably picked another lawyer.

Commissioner Levine feels the Stay (granted by the Executive Director) should automatically terminate when it was originally set for hearing. His understanding of DAG Kerber's comments is that the next sentence should state if the applicant seeks a continuance and wants the Stay to be continued beyond the original date that has to be addressed by the Commission.

DAG Kerber indicated when these situations are referred to the Commission they should be addressed through a meeting. He likes the wording used by California rule 1762(a) that states "The Executive Director upon the direction of the Chairman, or in the absence of the Chairman any Commissioner, ..." He prefers our rule on Continuances say that. Robert Colton liked the wording being used by Florida Rule 61D-3.003 stating "A request for an appeal hearing following a stewards'/judge's ruling shall not automatically stay the decision of the stewards/judge regarding the penalty imposed..."

DAG Kerber proposed the following changes: Use the ARCI language "for Stay with cause to be approved by the Executive Director. This Stay will expire at the time of scheduled hearing unless extended by the Executive Director". In Rule 19.6, Continuances, change to "will be decided by Executive Director".

C. Multiple Disqualifications.

Mr. Houghton would like this put in because this is what is currently done, and would spell out what happens and explain why it is done. It explains how to hand more than one disqualification in a race. It states "... more than one incident of interference in a race where disqualification is warranted, the Stewards shall deal with the incidents in the order in which the incident occurs during the race from start to finish ...". This will clarify the way the process works.

D. NASID's

Mr. Houghton indicated there currently is no stacking rule and would like the rule to be consistent with the RCI Model Rule. It currently does not allow Ketoprofen, Diclofenac, Firocoxib and Phenylbutazone. The only NASID approved under the current rule is Bute (Phenylbutazone and oxyphenbutazone). Rule 15.1.3.1.5 would have to be changed. The penalties could remain the same. Address the micrograms per milliliter penalty chart which currently goes from 2.0 to 2.1 and does not address between 2.0 and 2.1 results. DAG Kerber will change wording to greater than 2.0 and greater than 4.4.

Eliminate 15.1.3.1.4 and add the RCI Rule E and keep the penalties in place adding "greater than".

The decision was made to utilize the RCI rule removing A and B and using C. Flunixin, Ketoprofen, Phenylbutazone would be stacking positive. The combination of any other would be a violation. This will be a rule change so that there will be time for discussion, review, input from the horseman, etc.

E. (5) Androgenic-Anabolic Steroids

Mr. Houghton indicated the levels for Androgenic-Anabolic Steroids 15.17 are different than ARCI Guidelines. The DTRC rules (100 picograms) are used because it supersedes the ARCI Guidelines (25 picograms).

Commissioner Stegemeier indicated it would be helpful to have information as to what the surrounding states are doing.

Mr. Houghton proposed adopting the ARCI rule in total for Anabolic Steroids.

At approximately 12:00 p.m. the Committee took a break.

At approximately 12:05 p.m. the Committee returned to session.

Rule Review

Commissioner Stegemeier had a few questions about the rules.

1. 2.6.2.1 – "Applications from persons not previously registered or granted an authorization or permit at Licensee's racetrack shall include the names of two reputable persons ..." Commissioner Stegemeier questioned if this is something that is done? Mr. Houghton indicated this pertains more to Trainers, Assistant Trainer or Blacksmith tests – for those who have never been in that capacity are required to have two letters.
2. 2.10.1 – "All Arabian horses participating in races held at Delaware Park shall be subject to all the Rules and Regulations of the Delaware Thoroughbred Racing Commission with the exception of the regulations concerning the use of drugs, medication and/or prohibited substances." Commissioner Stegemeier questioned why this is here? Mr. Houghton thought this was put there when the Arabian Jockey Club regulated and penalized in the early days of Arabian racing. Mr. Wayne proposed that we put a period after Commission and eliminate the remaining text.
3. 2.10.2 – "The Policies and regulations of the International Arabian Horse Association and the Mid-Atlantic Arabian Horse Racing Association shall be the regulations applied by the Delaware Thoroughbred Racing Commission to the use of medication, drugs and/or prohibited substances by Arabian horses racing in Delaware on licenses premises." Robert Colton questioned whether this paragraph should be deleted based on the discussion of 2.10.1. Commissioner Decker agreed this should be removed.
4. 5.2.5 – "The Commission may meet subsequent to the first Tuesday of February of each year and award dates for racing within the limits provide in Rules 5.2.3 and 5.2.4 on an application submitted to it, provided the days so awarded in no way conflict with any provision of Chapter 101 of Title 3 of the Delaware Code." DAG Andrew Kerber proposed changing wording to "The Commission may meet subsequent to receipt of an application for racing days under 5.2.3 to award dates."

5. 7.3.4 – "... No registered Trainer shall assume responsibility for horses not under his active care and supervision, except as provided by Rule 7.3.7." Commissioner Stegemeier questioned the reference to Rule 7.3.7. Mr. Houghton state the cross-reference should be to 7.3.6.
6. 8.11.4 – "Whip, blinkers, number cloth, bridle and rider's safety helmet and rider's safety vest (with a minimum British rating of #5) shall not be included in a rider's weight." Mr. Colton confirmed that the British rating of #5 is not a standard and is not being used. It was agreed to remove "(with a minimum British rating of #5)".
7. 12.8 – "Charts Considered: In determining eligibility, allowances and penalties, the reports, records and statistics as published in the Daily Racing Form and the monthly chart books, or corresponding official publications of any foreign country, shall be considered." Commissioner Stegemeier questioned if this includes Equibase? Mr. Wayne suggested adding Equibase/Daily Racing Form.
8. 13.11 – "Delivery of Claimed Horse..." Robert Colton will forward a copy of proposed wording that he has written to DAG Kerber. A summary of his wording:

"13.11.1 Any horse that has been claimed that is not ordered by the Stewards for a post race test, shall immediately after the race has been run be taken to the paddock for delivery to the claimant who must present written authorization for the claim from the Racing Secretary.

13.11.2 Any horse that has been claimed that is ordered by the stewards to a post race test shall immediately after the race has been run, be taken to the test barn, remain the responsibility of the original trainer until the post race test has been completed and delivered to the claimant who must present written authorization for the claim from the Racing Secretary. The responsible claimant or representative shall also accompany the horse to the test barn..."
9. 15.1.3.1.9 – "Any horse running ...for a period of not less than sixty (60), unless permitted by the Stewards, days before.." Commissioner Stegemeier feels this does not read correctly. DAG Kerber indicated it should read "Any horse running ...for a period of not less than sixty (60) days before being permitted to race without the Furosemide (Salix), unless permitted by the Stewards."
10. 15.9.1 – "The Stewards may at any time order the taking of a blood, urine, or saliva specimen for testing from any horse entered..." John Wayne questioned the the limits of the wording "blood, urine, or saliva specimen". DAG Kerber referred to 15.1.2.6 "Test Sample shall mean any body substance including, but not limited to, blood or urine taken from a horse ..." He recommended changing the words "blood, urine, or saliva specimen" to "test sample".
11. 15.10.6.3.1 – "Laboratories conducting post-race sample analysis must have access to LC/MS instrumentation for screening and/or confirmation purposes." Commissioner Stegemeier questioned whether this is necessary based on the lab accreditation. He stated it is mentioned in the RFP that they have to be accredited. He questioned whether to remove this section. **NOT SURE A DECISION WAS MADE??**

3. NEXT MEETING OF THE COMMITTEE

Not discussed. Will there be another meeting?

4. ADJOURNMENT

At approximately 1:23 p.m., the Workshop ended.