



**Delaware Thoroughbred Racing Commission  
Minutes of Regular Meeting Held On  
June 17, 2015**

The Delaware Thoroughbred Racing Commission held a regular meeting on Wednesday, June 17, 2015, at 10:15 a.m., in the Horseman's Office, 2<sup>nd</sup> Floor, at Delaware Park, 777 Delaware Park Blvd, Wilmington, DE 19804

**The following Commission members were present:**

W. Duncan Patterson, Jr., Chairman
Edward J. Stegemeier, Secretary/Commissioner
Henry J. Decker, Commissioner
Richard A. Levine, Esq., Commissioner
Debra M. Killeen, Commissioner

**The following individuals also were present:**

John F. Wayne, DTRC, Executive Director
Andrew Kerber, Deputy Attorney General, Commission Counsel
Edward Black, Deputy Attorney General, Stewards Counsel
Edwin Kee, Delaware Secretary of Agriculture
Kevin DeLucia, Delaware Park, Sr. Vice President & CFO, Racing-Administration
Nancy Myshko, Delaware Park, Sr. Vice President, HR/EVS/F&B/Mutuel/Sec.
John E. Mooney, Delaware Park, Executive Director of Racing
Michael Gorham, DTHA President
Bessie Gruwell, DTHA Executive Director
Thomas McGonigle, DTHA Attorney
Francis J. Swift, Jr., DTRC, Inspector
Michael Delaney, DTRC, Inspector
John T. Peters, D.V.M., DTRC, Chief Commission Veterinarian
Richard Brown, D.V.M., DTRC, Veterinarian
G. Jack Houghton, DTRC, Chief Steward
Mindy Coleman, Jockey's Guild
Robert E. Colton, Delaware Jockey's Association, Director
Steven Bertrando, DTHA-DHAF
Thomas Cash, Special Agent, Federal Bureau of Investigation, Gaming Liaison
Brian Pedroza, Jockey
Irwin Steinberg, Jockey Agent for Brian Pedroza
Horace Armstrong, Assistant Trainer
Dr. William Latham, Associate Professor of Economics, University of Delaware
Dr. Kenneth Lewis, Chaplin Tyler Professor of Economics, University of Delaware
Pam Rash, DTRC, Administrative Asst. (Recording Minutes)

**1. WELCOME & CALL TO ORDER**

At approximately 10:15 a.m., Chairman Duncan Patterson called the meeting to order.

## 2. APPROVAL OF MINUTES

Upon a motion duly made (Decker) and seconded (Stegemeier), minutes of May 13, 2015 were approved.

## 3. Public Hearing on Appeal

- A. Mr. Brian Pedroza – Appeal of Stewards Ruling 04-2015  
Appeal Number: ASR-04-2015  
DTRC Rule Number(s): 3.3, 14.15.1 and 14.16.1

Chairman Patterson asked Mr. Pedroza to confirm that he was asking for a Continuance. Mr. Pedroza confirmed that Mr. Gary Katz was his attorney and was not able to be at the meeting as he had another court date and was requesting a Continuance.

DAG Andrew Kerber reviewed the history. Mr. John Wayne granted a Stay with the agreement they would be ready to present at the June 17, 2015 DTRC meeting. Mr. Katz, who is not licensed in Delaware, submitted his motion and proposal for Pro Hac Vice with a \$300 check to John Wayne on June 16, 2015 at 16:02 hours. He is not admitted. It will have to be approved by the Commission and delivered to the Supreme Court. He has taken steps prior to the today's hearing. He was upfront stating that he had another conflict with another court date and could not be here today. Mr. Pedroza was advised in advance that the Stay would not be extended beyond June 17 and that he should appear prepared at the hearing. Mr. Katz has taken steps to submit paperwork, which he has not always done in the past. The way the rule that was approved by the Commission works, is that Mr. Wayne has the authority to make these decisions for the Commission until the Commission meeting/hearing.

Commissioner Levine stated Mr. Wayne indicated Mr. Pedroza needed to have his council here and council has acted with normal process and alacrity, and it should be scheduled at the next meeting or the next meeting that the Commission determines it should be held at. Any further delays will be result in discontinuance of any Stay. If the stay is denied, the individual is adjudicated. Commissioner Levine moved to grant a Continuance until the July 13, 2015 DTRC meeting, Commissioner Killeen seconded.

Commissioner Stegemeier expressed his concern that the issues of counsel not qualified to practice in Delaware and that the Commission has to wait for this person to go through the steps to have approval. Basically it seems that in past cases it is not the Commission that determines when a case will be heard, the person brought into the defense determines when the hearing is held. He does not disagree with the analysis of Commissioner Levine, but he finds it unsettling once again that the Commission is not the ones making the decision.

Commissioner Decker stated he did not support the motion. He feels that if it were rejected it would send a message that appellants before this Commission will find more accommodating legal advice.

Chairman Patterson indicated he would support the motion; however, the concern he has is the protracted appeals/continuances. Making it very clear the Commission will hear it and if the appellant or counsel is not present, action would be taken anyway.

The Commission voted 3 Yes and 2 No. The continuance was granted and will be rescheduled for the Monday, July 13, 2015 Commission Meeting. Chairman Patterson advised Mr. Pedroza to notify Mr. Katz that they will need to appear at that meeting.

DAG Kerber advised Mr. Pedroza that the continuance has been granted until Monday, July 13, 2015 and the Stay has been continued until that date and that he should plan on appearing with Mr. Katz on that date. The Stay will not continue beyond that date.

Mr. Pedroza was excused.

#### 4. OLD BUSINESS

##### A. ARCI Stacking Rule incorporation into DTRC Regulations

DAG Kerber indicated he was not sure of the status and would follow-up on this. (Further discussion of the Stacking Rule can be found under Cobalt and Public Comment.)

##### B. Equine Drug Testing Backup Laboratory

Will be discussed under new business.

##### C. Cobalt

Chairman Patterson recalled the previous discussion on the Cobalt rule which was approved at the April ARCI meeting. Dr. Benson had some concerns and Mr. John Wayne would be in contact with her. Mr. Wayne stated he has not heard from her. Chairman Patterson felt, and Mr. Wayne agreed, that there is no reason for the Commission not to move forward. The Commission had felt the levels were fair. If the levels are above 25, the horse would not be allowed to run until the levels are below 25. If the levels are above 50, there will be a fine and suspension. Chairman Patterson stated this was being instituted at other jurisdictions and he did not see any reason the Commission should not move forward with this.

Commissioner Levine reminded the Commission that this was discussed and acted upon at the May meeting. He read from the minutes: "Upon a motion duly made (Decker) and seconded (Stegemeier), the general rule, subject to the final documentation being provided to DAG Kerber, was approved. Mr. Wayne will provide the proposed rule to DAG Kerber to begin the process." The minutes reflect that the Commission was waiting for Dr. Benson's final review which was expected to be complete by May 13. He was not sure why it should be delayed.

Chairman Patterson indicated the delay was waiting on Dr. Benson's review and the rule was based on the ARCI recommendations. He has not heard of any changes. Mr. Wayne stated the only difference of opinion is if it is injurious to the horse or if it is performance enhancing. Chairman Patterson confirmed that the Commission's decision was based on the being injurious to the horse.

DAG Kerber advised that this has been done. It was sent to the Registrar of Regulations for publication for June 1 and waiting for comments through the end of June. The Rule would be ready for final review of comments and approval at the next meeting.

##### ARCI Stacking Rule incorporation into DTRC Regulations

DAG Kerber apologized for his confusion on this during the earlier discussion. He indicated the proposed Stacking Rule was published and no comments were received. He will confirm that the Stacking Rule is in place. State Steward Jack Houghton stated his understanding was that the Stacking Rule would take place June 11. Based on last meeting notes that is correct. DAG Kerber will confirm with Mr. Houghton that the rule is in place.

DAG Kerber apologized for his confusion and will confirm dates for both the Stacking Rule and the Cobalt rule with the Registrar.

Commissioner Levine asked if there was a need to vote on an emergency rule for Cobalt. Mr. Wayne stated he did not feel there was a need as the testing has been coming back at very low levels. State Steward Jack Houghton agreed.

##### D. Econometrics Study

Delaware Secretary of Agriculture, Ed Kee, introduced Dr. William Latham and Dr. Kenneth Lewis from the Center for Applied Business and Economic Research, University of Delaware who, lead the team that worked with both Standardbred and Thoroughbred industries to assess the value and economic impact of the horse racing industry in Delaware. The bottom line: horse racing generates over \$120 Million of

goods and services, \$60 Million in wages/salaries for a total impact of over \$180 Million yearly and \$16 Million in taxes.

Dr. Latham spoke about the study and explained how they put the information together. He referenced the list of acknowledgements and thanked all those people for their cooperation and input.

He explained that the racing industry consists of mainly horseman – operation of maintaining, training and racing horses. They wanted to obtain information on what this industry is spending in Delaware. How much people spend is what generates economic contribution. They worked closely with a number of people to develop a survey questionnaire and sent it out to a lot of horseman and got responses back and were comfortable with the nature of expenditures, the fair amount of detail about the industries where they spend it and the places where they spend it (in Delaware or outside Delaware).

He then explained there is the operation of the tracks. They received cooperation from the track on the kind of spending that the tracks do.

He stated the third piece is the regulatory side – the Commissions and the Associations. This includes all the people involved; i.e. people taking samples, people testing samples, etc.

He then explained the last piece is the spectators, included as part of the tracks, which generate some impact.

He explained that the direct spending these different groups do result in additional spending. When a horseman buys feed from a supplier, the supplier employs people; those people have income to spend, and it then ripples out through the economy resulting in what economists call multipliers. The total amount of economic contribution is significantly more than the direct spending at each source. The economic multiplier for spending, as an example, is 1.8. The direct spending that starts in Delaware results in 1.8 times larger spending. This is not a large multiplier, but Delaware is a small state. Anytime someone buys something it is probable that a lot of it comes from out of state, so the impact quickly leaks out of state ending up with modest but significant economic multipliers.

The direct numbers were used with a model of the economy of Delaware that accounts for all interactions of industries, spending, re-spending, paying of wages, and the taxes paid directly and indirectly by various components. The report shows the total state, local & federal taxes paid by the racing industry to be approximately \$17mm of additional taxes paid into the state in addition to total spending, wages, etc. The estimated jobs supported by horse racing, both directly and indirectly are about 1,500; which is a fairly large contribution in a small state like Delaware.

Commissioner Levine asked if the multiplier is a full-time equivalent. He pointed out that there are more than 1,500 people working at the race track today. Dr. Latham confirmed that is correct. The full-time equivalent is an important consideration. The same thing goes for counting horses. Some are here part of the year, some are here full-time, some have group owners, etc.

Chairman Patterson indicated he had the privilege of attending the review meeting and commented that the horse racing industry (both standardbred and thoroughbred) is a labor intensive industry. He had initially questioned the number and it was explained that it is full time equivalent. Chairman Patterson feels that the number is still low. Secretary Kee stated that this number was revised up based on Chairman Patterson's comments at that meeting.

Chairman Patterson thanked Secretary Kee for doing this study, because it shows the importance of the racing industry in Delaware especially at a time when budgets are tight and things are being questioned.

Commissioner Decker asked Dr. Latham if the multiplier used was previously devised or is it unique to the horse racing industry. Dr. Latham indicated the multipliers used are unique for the industry because the industry has a unique spending pattern that is different than any other industry. The way the model works is it doesn't start with a multiplier it starts with a number of dollars spent in each industry and at the end they are added up and the multiplier is calculated at the end. Commissioner Decker expressed his interest in the assumptions for the multipliers as some of this is going out of state. Dr. Latham stated that data comes from the Dept of Commerce about the flow of spending from state to state. This is used for the basis of the calculations. The model used is used for many purposes and they use it frequently.

They are very comfortable with the model. It is an economically conservative one and they can justify their numbers.

Commissioner Decker questioned the multiplier of 1.53 for wages and salaries. He did not doubt their expertise, but felt the number was low as he has seen numbers as high as 3. Dr. Latham agreed a multiplier of 3 for the US as a whole is right, but when wages are paid in Delaware they go right to target and 95% of target sales come from out of state.

Commissioner Stegemeier asked Secretary Kee what the next step is. Does it go to the Governor and legislators? Secretary Kee stated that the Governor and each legislator have received a copy. There have been a few conversations. He feels the job is done. The study is complete and it has been put in the hands of the folks that asked for the study.

Commissioner Stegemeier asked Drs. Latham and Lewis if they had any insight on the health of the industry or if they were simply churning through the numbers. Dr. Latham indicated they were aware the industry used to be larger and of some of some of the national trends. They have not looked at the health of the industry. The fact that there are still a lot of operations in Delaware indicates there is some viability there. Making projections would be very dangerous because the industry is interactive with what's going on in other states and they don't know what they're doing. There's a lot of movement across state lines and racing conditions vary. Commissioner Stegemeier felt that some of our industry is dependent on how well the casinos do, how much money is there for purses. Dr. Latham agreed.

Secretary Kee stated it was a good exercise for him. It was interesting to watch them come to grips with how different standardbred and thoroughbred is. Total farm gate sales for traditional agriculture (corn, soy bean, chickens) is \$1.2 Billion a year. The total purse money standardbred and thoroughbred which is \$37 Million. That purse money generates \$182 Million goods services, wages and taxes paid. Intuitively and from the gut, that fits as compared it to the whole agriculture industry. Its relative impact as compared to traditional agriculture seems to be at the right pace. This is valuable. This is a benchmark that is useful for the horse industry to have. How it is used is up to the holder of the document.

Chairman Patterson asked Secretary Kee what kind of feedback he has received. Secretary Kee stated he has had none. He received a couple of comments that it is nice to have.

Commissioner Stegemeier asked if it would be in the industries benefit to have representatives from both industries meet with the Governor and present this. Secretary Kee has plans to make a press release about this. He felt that the suggestion Commissioner Stegemeier made is up to the Commissions, the Associations and tracks to see how they want to deploy this data. He would be happy to participate and he suggested that they be sure Drs. Latham and Lewis are included.

Upon a motion duly made (Decker) and seconded (Stegemeier), it was agreed to formally thank Secretary Kee and Drs. Latham and Lewis with a letter for their work.

## **5. NEW BUSINESS**

### **A. Truesdail Laboratories**

Chairman Patterson shared that the Commission had a meeting with Truesdail Laboratories. Randy Gates, Chief Operating officer and Anthony Fontana, PhD, Technical Director, were at the meeting with the Commission (minus Commissioner Killeen). It was a very interesting and informative meeting and raised their comfort level. The lab has three sections – racing (40%), environmental (40%), product testing (20%). They have different facets which enable them to be more broad-based and to be in a position to provide the best cost and the best facilities. They utilized their environmental section to come up with the Cobalt levels and the testing for that. The Commission was very comfortable with the meeting and have good feelings moving forward with the testing at Delaware Park. Jack Houghton, Chief State Steward, was at that meeting and confirmed they are meeting the schedule and there were no backlogs.

### **B. “Veterinarian Observe” Scratches**

John Mooney, Executive Director of Racing, Delaware Park expressed concerns about allowing a veterinarian exam to be done, for a horse to be scratched and the horse to not be put on a Veterinarian

Scratch list. He feels that certain people abuse this rule and he feels strongly that if a "Veterinarian Observe" is going to be used then that horse should be penalized. He does not feel it is advantageous to put the horse on "Veterinarian Observe" and allow the horse to be eligible to be entered the next day. He has concerns and feels the system is abused and if the horse is going to be scratched, then it should be put on the Veterinarian Scratch list not just Veterinarian Observed.

Commissioner Decker asked Mr. Mooney how the scratch process is abused. Mr. Mooney gave an example: A trainer called and wanted out of a race that he wished he hadn't entered in; he wanted to run two days later. He was told he couldn't come out of the race. The race was a short field and they were concerned that a horse could come out of the race with a legitimate vet scratch. He showed up with a "Veterinarian Observe" and did not race that day. Commissioner Killeen asked if he ran two days later. Mr. Mooney confirmed yes.

Commissioner Decker asked if Mr. Mooney was concerned that the trainers were doing something to the horses? Mr. Mooney stated no, he just felt they didn't want to run in the race. Commissioner Decker indicated they had to get past the veterinarian. If a sound horse was brought before the veterinarian, the veterinarian would not scratch the horse. Commissioner Stegemeier asked if this was with Commission veterinarians or private veterinarians. Mr. Mooney stated it was the Commission veterinarians.

Dr. John Peters, Chief Commission Veterinarian, indicated "Veterinarian Observe" is used to take a horse that has a minor problem out of the race until that problem is solved. It is not necessarily 10 days. It could be months, days, less than a week. It depends on the recovery of the horse. Work and blood is the other Veterinarian Scratch list which requires the horse to work off and be blood tested. Ten day withdrawal time is when the practicing veterinarian treats a horse for sickness, etc. They give a medication that lasts longer than 6-8 days so they are put on a 10 days stewards list. When they complete the 10 days, they can come off. The "Veterinarian Observe" list is the easiest to come on and come off for a horse to race because horses are needed most of the time. The problems can range from lame to broken bone. The horse may not race for a year but could be on the "Veterinarian Observe List."

Dr. Richard Brown, Commission Veterinarian, referred to a specific horse that concerned Mr. Mooney. This horse was a \$4,000 claimer with a very large bowed tendon in its right front leg. Horses that have bowed tendons have an automatic pass to be excluded from a race based on track conditions. Wet, heavy, deep track, allow them an automatically out. The first time Dr. Brown looked at this horse was June 1<sup>st</sup> and track conditions were not suitable for that horse to run even though the horse was sound. He suggested that the trainer scratch the horse, which he did. The horse was then reentered on June 8<sup>th</sup> and the horse was not sound. It was not the bowed tendon leg, it was his other leg. There was no obvious reason for him to be lame. He thought there may be something with its hoof. The trainer indicated he was shod the day before. Dr. Brown suggested he get it checked and put the horse on the "Veterinarian Observe List." He looked at the horse several days later and he was sound. Dr. Brown stated his job is to protect the horse from injuring himself and some of these horses do not need 10 days or 2 weeks to correct the problem. They try to keep as many horses available to run as they can. There are some horses are on the "Veterinarian Observe List" but may never come off the list. There are times they do not want the horse on the track. He felt they are not abusing the system or giving anyone a break. They are maintaining a supply of raceable horses to draw from.

Mr. Mooney stated the 10 day rule was put into effect to protect the horse and to reduce the number of unnecessary scratches the track incurs every week, especially from horses out of town. It also leaves the track in a position where a percentage of winning trainers review a race and determine they want out of that race. If they feel they are not going to be penalized and can race somewhere else in three days, some take advantage of that. If they did a "Veterinarian Observe" and there was a minimum number of days before they can be reentered, it would probably be to everyone's advantage.

Chairman Patterson summarized: Mr. Mooney wants the 10 days to minimize the scratches. He's not questioning the judgment of the veterinarians regarding horses they scratch, but rather the fact that they are not on a 10 day list. Mr. Mooney indicated he has no qualms with our veterinarians. If a horse is lame today, then the horse should be off for a minimum number of days. Commissioner Stegemeier indicated it sounds like Mr. Mooney wants to remove the "Veterinarian Observe List" and if a horse is scratched it should be an automatic 10 days. If the horse can't run and is scratched, then it should not run two days later. Mr. Mooney stated he does not have a problem if a trainer calls and says his horse cannot run because of a bowed tendon and the track conditions. Chairman Patterson stated that some trainers may not do that.

Dr. Brown stated that horses that are scratched and not stabled here do not get on the "Veterinarian Observe List." The only way a horse can get on a "Veterinarian Observe List" is if Dr. Peters, Dr. Teichner or himself look at the horse here. If a veterinarian calls and says a horse has an injury can it be put on the "Veterinarian Observe List," the answer is no. Only horses stabled here can be put on the "Veterinarian Observe List."

Chairman Patterson asked Mr. Mooney if he felt it was being abused here. Mr. Mooney felt it has been over the years. He is having a survey done to see what other jurisdictions are doing, to see if other jurisdictions are using "Veterinarian Observe Lists."

Commissioner Decker appreciates Mr. Mooney's problem with scratches, but to institute a hard and fast rule removes the judgment of the veterinarian and can limit the number of horses available for racing. He is more than willing to work out a solution, but does not want to take away the discretion of the veterinarians, their professional judgment as to whether its 5 or 10 days, etc.. He would rather see their judgment get horses back to the races vs. an automatic suspension for a period of time. He feels there should be some way to approach this. Mr. Mooney does not feel it removes the discretion of the vets. It says the veterinarian can put them on the list for a certain period of time and then go look at them again.

Commissioner Killeen asked if there are statistics. Mr. John Wayne stated the Veterinarian Scratch List is distributed and shows the reason for the scratch and the doctor that that makes the diagnosis. Commissioner Levine asked if Mr. Wayne does a "Veterinarian Observe List". Mr. Wayne stated he did not track that aspect, but could add a column to the weekly report that is updated. The Commissioners indicated they would like to see another column showing "Veterinarian Observe." Mr. Wayne indicated that he would review the past Veterinarian Scratches and see how many were Vet Observe and hence forth add that additional information to the reports.

Commissioner Levine asked how many horses are on the 10 day list vs. the "Veterinarian Observe List" and if on the "Veterinarian Observe List," how many come back within 10 days. Dr. Peters stated most horses on the "Veterinarian Observe List" come back within 10 days, some do not, some never will. Horses that are on the work & blood list come back slower because their problems are usually greater. Horses that are properly or improperly medicated and scratched either over the phone or by the practicing veterinarian here at Delaware Park are on the 10 day list and come back automatically. The only people who can put a "Veterinarian Observe" in for a scratch is a Commission Veterinarian. Only a Commission Veterinarian can take a horse off the "Veterinarian Observe List." They may look at a horse 6 times because the problem is not resolved. He may be okay to race in three days. Mr. Wayne asked Dr. Peters to indicate to the Stewards on the scratch list when a horse is a vet observe".

Commissioner Stegemeier is sympathetic to both sides. He has a concern about doing anything to cause a trainer to race a horse when it should not be racing. Commissioner Decker told the veterinarians that they should continue doing what they are doing. He would like to see a study done on scratches. He feels the quality of horses is going down.

Chairman Patterson confirmed the Commission has confidence in the veterinarians and in Mr. Mooney. He felt that they all need to get together and come up with a solution. The Commission will not dictate one way or another. He stated it was a good discussion and appreciated everyone's comments.

## 6. REPORT FROM DTRC EXECUTIVE DIRECTOR

### Summary of Activities Report for May 31, 2015

Executive Director Wayne submitted his written report to the Commission for the period May 1 to May 31, 2015. Points of interest read into the record included:

	<u>April 2015</u>	<u>Year-To-Date</u>
Number of Persons Fingerprinted	40	83
Fingerprint Fees Collected	\$3,160	\$6,557
DTRC Licenses Issued	962	2,301
Fines & Appeal Fees Collected	\$1,950	\$3,950
License Fees Collected	\$39,735	\$72,200

### Other Statistics During April

ARCI National Surveys answered	2
Contacts from Police Agencies	6
Contacts from Video Lottery Enforcement	4
Freedom of Information Act Request for Info	0
National Racing Compact Reviews	3
National Racing Compact Applications Rec'd	58
Contacts from Racing Industry Groups	16
Contacts from other Racing Commissions	16
Contacts from other Racing Associations	16
Contacts from the General Public	7
Contacts from Horsemen	38
Media Contacts	3
Contacts from Racing Officials Accreditation Program (ROAP)	2

## **7. REPORT FROM DTRC CHIEF COMMISSION VETERINARIAN**

### Health Report

John T. Peters, D.V.M., Chief Commission Veterinarian made the following report for May 1 to 31:

There were no deaths racing in May. There was a horse that ran into the rail and broke his stifle tibia. It had a lot of hemorrhaging and the practicing veterinarian felt it was best to put him down. The other case, a horse was shipped in overnight and got down and they couldn't get him up. They medicated and got him off the truck and then he went down and stayed down. They called Dr. Peters and stated they want to put him down. He indicated he wanted to see the horse. He looked at him and agreed he needed to be put to sleep, but he was not satisfied that it was because of a broken hip. Dr. Peters told Mr. Wayne he wanted to send the horse to New Bolton center for testing. The testing came back that it did not have a broken hip. After 2-3 weeks of testing, it came back he had EPM (Equine protozoal myeloencephalitis). It is a serious disease in horses and Dr. Peters wanted to take a few minutes to answer any questions people may have.

Commissioner Decker asked how contagious it was. Dr. Peters indicated it is not contagious. The horse does not run a fever, in a stall, cannot get up, seems to be paralyzed. Commissioner Stegemeier asked if it was neurological. Dr. Peters stated it was a neurological symptom disease. It infects the spinal cord.

Commissioner Decker questioned the fact the report indicated that the horse appeared neglected. What is the procedure if a horse comes here and neglect is suspected. Mr. Wayne stated he contacted the NY Gaming Commission Equine Medical Director, Dr. Scott Palmer. Dr. Palmer immediately contacted the veterinarians at Finger Lakes. Mr. Wayne spoke with Dr. Robyn Zack who issued the health certificate. Mr. Pinnock was told to vacate the premises at Finger Lakes and the investigation is not done with him. Commissioner Decker questioned what the procedures are if a horse arrives and appears neglected. Dr. Peters indicated they would not know. If the horse was here to race, they would see the horse standing and eating. They would then recommend the horse be properly fed and taken care of. With this case, the horse being shipped from New York, it probably had no food or water all the way. With the nature of this disease, shipment is a stress that causes the horse to come down with the symptoms of the disease. He looked bad because he didn't have the proper nutrition but he had the disease a long time before he shipped. Commissioner Decker asked if a horse shows up at Delaware Park and appears neglected or abused to our veterinarian, but in every other way appears sound, can that horse be impounded and observed for a period of time and not let it leave the track? Dr. Peters stated yes. He has done that in a few cases. He had a case here a couple of years ago where an outrider brought a pony he had ridden the previous year, had him turned. Dr. Peters was asked to look at him. He did and instructed the horse be fed, but not over fed. Dr. Peters went on a weekly visit to be sure he was being taken care of and in a month's time he looked good. He confirmed to Commissioner Decker that if a trainer came in the middle of that and demanded he take his horse, Dr. Peters would not allow the horse to be taken.

Commissioner Decker asked how a horse gets EPM. Dr. Peters indicated from Possums. Dr. Peters stated they can be treated, but they will never be as good as they should be. Commissioner Decker thanked Mr. Wayne and stated he appreciated what he is doing.

For the month of June there have been 4 horse fatalities:

- A 3 year old colt, broke right front medial sesamoid during training.
- A horse was thought to have broken its back. It could not be confirmed and was sent to New Bolton Center. The horse had fractured vertebrae between the lumbar and the sacrum area. He also had a bad heart, which could have caused the horse to go down.
- Another broke its cannon bone racing.
- The last broke a left front sesamoid racing.

## **8. REPORT FROM DELAWARE THOROUGHBRED HORSEMEN'S ASSOCIATION**

### **Delaware Certified Thoroughbred Program Report**

DTHA Executive Director, Bessie Gruwell filed the following report:

The report looks a little different because they have changed systems. Bonuses paid through May were \$80,840.00 leaving a balance of \$969,412.38. There have been 37 horses into the program this year.

Commissioner Decker questioned when the \$1,000,000.00 bonus money gets deposited. Ms. Gruwell indicated it is when she requests, which she did in February this year. The money is deposited in Delaware Certified Special account at Artisans Bank.

## **9. PUBLIC COMMENT**

### **Delaware Jockey Health & Welfare Benefit Board**

Chairman Patterson welcomed Mindy Coleman, attorney for the Jockey Guild, who attended the earlier Delaware Jockey's Health & Welfare Benefit Board meeting. Ms. Coleman indicated they are appreciative of the work that Robert Colton has done with the insurance program and all the work that is put in by the Commission to assure the health of the riders in Delaware.

Commissioner Decker asked Ms. Coleman where the Jockey Guild stands on the most recent Federal legislation introduced to govern thoroughbred racing as supported by the Jockey Club. The Jockey Guild has not made any public comment. They are still in support of RMTC regulations and sticking by original comments on medication. If there is going to be Salix medication, it should be administered by a state veterinarians. There are other issues that need to be focused on. There is concern about completely eliminating Salix and the risks that could result. There are concerns about Clenbuterol, shock wave therapy and other concerns with medications.

Robert Colton was very pleased with the way the Delaware Jockey Health & Welfare Benefit Board meeting went. He is looking forward to testing the Linx Impact Assessment System. There were some concerns from the riders regarding safety since the beginning of the meet. He will address these with the Safety Committee. Concerns about break downs and racing surfaces. Chairman Patterson asked who was on the Safety Committee. Mr. John Wayne indicated Cathy O'Hara, John Mooney, Fritz Burkhardt, Robert Colton, Dave Foraker, Bessie Gruwell and John Wayne. Chairman Patterson felt that when there are breakdowns, unfortunately, people look to the track for issues. Mr. Colton indicated the senior riders do not feel there are any issues with the track.

Commissioner Stegemeier indicated the healthcare program is in very good shape with funds. Not saying the program will continue without issues. There are now 15 people who are eligible for coverage who are not taking it. If they were to join there would be a deficit. There is also an issue where the majority of the members are retired jockeys. This will put more pressure on the healthcare plan in the future. Looking at replacing helmets and vest for jockeys who have had spills. Also looking at the electronic monitoring of those spills.

## Horsemen's Mail

Bessie Gruwell shared concerns from the horsemen about mail/packages for the backstretch workers delivered to the office being confiscated through the Commission. Employees are being asked, under duress, to open packages in front of the investigators. They want to know what is going on. Mail addressed to the Horseman's Office is not getting delivered there.

Mr. John Wayne explained a situation several years ago where a package was compromised. The package had the contents leaking into the lobby of the office. Mr. Wayne determined the package originated in Mexico. Mr. Wayne took possession of it and contacted the person in the stable area and had them come to the licensing office to open the package and it was determined they were illegal medications. There was an investigation opened. The Commission does not open packages. The recipient is asked to open packages in front of an investigator. In the past there have been compounded substances, syringes, needles, tattoo equipment, suspected compounded substances, feed supplements with no labels. Some were sent to RMTC tactical research program laboratory, at UC Davis. Two items are pending. The trainers involved with these two items were asked if they knew what they were giving their horse and they did not. In both cases the trainers were okay with sending samples of each for testing. They were told that whoever sends these products needs to be told to label them properly and only send approved products.

Fran Swift spoke of a specific situation where the recipient did not want to open the package in front of them. He was advised that the application that he signed stated that items were subject to inspection. He was advised that if he did not open the package, he could not take it to the backside. He did open the package and when the investigators saw it was a commercially packaged set of headphones they stated it was fine, nothing they were looking for. He then continued to rip open the package and then the headphones. He destroyed the package and its contents in a fit of temper.

Ms. Gruwell stated that people are getting very frustrated. It is their personal property and is not being delivered. People are saying they are being threatened that they will lose their license if they don't open a package. Mr. Wayne asked Mr. Swift if anyone had ever been told they will lose their license. Mr. Swift stated that people have been told that they could lose their license if an illegal substance is found.

Mr. Horace Armstrong stated he was the person that Mr. Swift referred to. He stated they confiscated his license. He was told if he did not open the package he would not get it back and wouldn't be able to return to the backside. He told them to return the package. They told him the package would be turned over to the State Police. He told them to turn it over. He was told if he did not open the package a complaint would be submitted to the Stewards. He stated that was fine, he was willing to have a hearing. Mr. Armstrong alleged that Mr. Swift told him there could be a bomb in there. This made him very mad and he ripped open the package. The only reason he opened the package was they took his license and he would not be able to return to his room and he would be automatically suspended. They indicated his license was temporary for 90 days and they had the right to revoke that license. The application he signed gave them the right to search his personal property. Mr. Armstrong contacted the Post Master General who stated that all the mail is delivered to the Corporate office at Delaware Park. Somehow the mail got from the Corporate Office to the Commission Office. Mr. Swift stated they did ask for Mr. Armstrong's license to verify he was who he said he was, but the license was given back to him. His license was never confiscated. Mr. Armstrong stated he was told he would not get his license back unless he opened the package. He had to open the package to get his license back. Ms. Gruwell stated she has been told that same story by several people.

DTRC Inspector Michael Delaney, who was also present with Mr. Swift at the time, commented about the interaction with Mr. Armstrong and refuted the comments that Mr. Armstrong made. Mr. Delaney stated Mr. Armstrong was not mistreated. Mr. Armstrong became extremely belligerent and extremely animated. He tore open his package. Inside the package there was clearly a commercially wrapped set of earphones. At this point, Fran Swift told him that was enough, that he could take the package and leave. Mr. Armstrong continued to tear up the package all over Mr. Delaney's desk, took the earphones out of the commercial packaging and broke them into dozens of pieces. He picked up what he could, left a lot of stuff laying there and stormed out of the office. The rule was explained to him. Nobody suggested there was a bomb in there. He was told that all they were doing was checking that contraband does not come through clandestine means. Mr. Delaney explained to him what contraband was. Chairman Patterson asked if Mr. Armstrong's license was taken from him. Mr. Delaney stated he did take his license to properly identify him and his license was returned after his package was opened.

Tom McGonigle, Attorney, DTHA, indicated Bessie Gruwell asked him to take a look at this situation. He fully understands and respects the job that Mr. Wayne and his staff have to do. They worked closely with the secretary of the Commission for legislation to address some of the issues that are in place now. The problem they are struggling with is who has the authority and what is the protocol. Last year a protocol was established that there had to be a reasonable threat and suspicion. He spoke with Mr. Andrew Kerber and suggested they have a discussion about what the protocols are and come back to the Commission and have some rules established. They can then go back to the membership and discuss the rules. Mr. Kerber agreed with what Mr. McGonigle has said and they need to research what the rights and responsibilities are. Mr. Wayne confirmed that when any package is opened it is with the strictest confidentiality and the investigators are not to discuss what is in the packages unless it is illegal or considered contraband. Their only concern is if it is legal or illegal. Chairman Patterson asked if every package is opened. Mr. Wayne stated only packages that may look suspicious, i.e. unusual packing, sent from a foreign origin. Not every package is asked to be opened, only ones that are suspicious. Mr. McGonigle wants to readdress this issue because a lot of time was spent last year on the protocol, but they are not sure it is fully understood.

Commissioner Levine asked for clarification as to what was passed last year. Mr. McGonigle confirmed that it was 1.0.11.0 in the DOA 3.1.0.11(10). Commissioner Levine asked if this was a bill? Mr. McGonigle confirmed it was but was not sure of the bill number. Mr. Kerber confirmed and explained that it originated from the Harness Commission and was made to apply to both Commissions. As there are no horses stabled at either track for Harness racing, there was concern that the Commission would not have ability to inspect where the horses are stabled off track. A Panel Report for The Secretary of Agriculture issued an Administration Inspection Warrant. It does apply to Thoroughbred, but was not expected to be used by Thoroughbred for inspections conducted on the grounds of the Association where it is currently within the regulations to do so. Following the procedures in the statute, Secretary of Agriculture can authorize a representative to go off premises to inspect. Mr. Kerber will forward a copy of this legislation to the Commission members.

Chairman Patterson asked Mr. Swift if they have found anything suspicious. Mr. Swift indicated they found a bag of an unknown substances that has been sent to the lab for testing. The trainer had no idea what it was. They have found a box of injectable syringes sent to an Assistant Trainer/Exercise Rider. Commissioner Stegemeier added they found fireworks, also. Chairman Patterson understands why it is done, but they must be careful not to harass people. He encouraged the investigators to use good judgment.

### **Stacking Rule & Cobalt**

Mr. Kerber asked to revisit Item 4A for clarification. He can confirm the ARCI Stacking Rule incorporation into the DTRC Regulations effective June 11, 2015 is correct. Mr. Edward Black had an electronic devise and was able to check the Registrar of Regulations and the rule has taken effect.

The Cobalt rule is pending and the Commission can take action at the July meeting, publish August 1 for effective date of August 11.

### **Track Condition**

John Mooney stated there are concerns when there are breakdowns and doesn't have an answer. Feels the racetrack is not a concern. The track as ½ inch more cushion that is has in previous years.

## **10. EXECUTIVE SESSION**

Upon a motion duly made (Stegemeier) and seconded (Decker), the meeting was adjourned and moved to Executive Session to discuss personnel issues at approximately 12:09 p.m.

## **11. ADJOURNMENT**

The meeting returned to public session at 12:25 p.m. and upon a motion duly made (Levine) and seconded (Killeen), the meeting was adjourned.



Year	# of Starters	# of Starts	1st	2nd	3rd	25% DCTP Earnings	25% Certifier Awards	Total Annual Awards
May								
2015	62	62	11	5	9	\$ 40,420.00	\$ 40,420.00	\$ 80,840.00
2014	271	779	105	105	112	\$ 473,564.57	\$526,814.57	\$ 1,000,379.14
2013	270	713	97	99	102	\$ 416,504.00	\$470,722.00	\$ 887,226.00
2012	318	943	138	140	146	\$ 437,340.00	\$409,503.00	\$ 846,843.00
2011	414	1331	166	189	181	\$ 715,099.86	\$773,251.86	\$ 1,488,351.72
2010	364	1150	142	180	146	\$ 705,631.25	\$778,203.75	\$ 1,483,835.00
2009	287	922	105	120	121	\$ 511,810.00	\$584,382.50	\$ 1,096,192.50
2008	210	690	94	82	109	\$ 367,963.60	\$433,265.20	\$ 801,228.80
2007	271	608	90	87	102	\$ 331,809.00	\$355,609.00	\$ 687,418.00
2006	139	476	68	61	72	\$ 201,286.80	\$214,936.80	\$ 416,223.60
2005	99	366	52	49	53	\$179,690.00	\$193,340.00	\$ 373,030.00
2004*	56	134	20	19	19	\$ 44,947.00	\$ 44,947.00	\$ 89,894.00
2003*	9	17	7	3	2	\$ 13,505.00	\$ 13,505.00	\$ 27,010.00
							<b>Total DCTP</b>	<b>\$9,278,471.76</b>

\* DCTP owners and certifiers received 10% each bonuses in 2003 & 2004

\* DCTP owners and certifiers received 15% each bonuses in 2005 thru May 2008

\* DCTP owners and certifiers received 20% each bonuses beginning June 1, 2008

\* DCTP owners and certifiers received 25% each bonuses beginning April 25, 2009

\* DCTP owners and certifiers received 20% each bonuses beginning April 30, 2011

\* DCTP owners and certifiers received 15% each bonuses beginning May 12, 2012

\* DCTP owners and certifiers received 20% each bonuses beginning May 18, 2013

\* DCTP owners and certifiers received 25% each bonuses beginning May 17, 2014

**Current Delaware Farms enrolled: 83**

**Delaware Certified Special Acct -Monthly Balance - 2015**

	Transactions	Balance				
Ending Balance - 2014	\$ 99,275.84	\$ 99,275.84				
2015 Jan Interest	\$ 17.39	\$ 99,293.23				
Feb Interest	\$ 175.09	\$ 99,468.32				
2015 Annual Bonus - 2/11/15	\$ 1,000,000.00	\$ 1,099,468.32				
Admin 5%	\$ (50,000.00)	\$ 1,049,468.32				
March Interest	\$ 258.42	\$ 1,049,726.74				
April Interest	\$ 258.48	\$ 1,049,985.22				
May Interest	\$ 267.16	\$ 1,050,252.38				
Available Funds - 5/30/15	\$ 1,050,252.38	\$ 1,050,252.38				
May Owner/Certifier Bonus Paid 6/9/15	-\$80,840.00	\$ 969,412.38	Starts	Win	Place	Show
			62	11	5	9