



**Delaware Thoroughbred Racing Commission  
Minutes of Meeting Held On  
April 13, 2017**

The Delaware Thoroughbred Racing Commission held a meeting on  
Thursday, April 13, 2017 at 10:05 a.m., in the Horsemens Office,  
at 777 Delaware Park Blvd, Wilmington, DE 19804.

**The following Commission members were present:**

W. Duncan Patterson, Jr., Chairman
Edward Stegemeier, Commissioner
Henry Decker, Commissioner
Richard Levine Esq., Commissioner
Debra Killeen, Commissioner

The following individuals also were present:

John F. Wayne, DTRC, Executive Director
Andrew Kerber, Esq., Deputy Attorney General
Michael Scuse, Secretary of Agriculture, Delaware Department of Agriculture
Dr. Susan Botts, DTRC, Chief Commission Veteran
Frederick Burkhardt, DTRC, Steward
William Fasy, President, Delaware Park
Kevin DeLucia, Sr. Vice President & CFO, Racing-Administration, Delaware Park
Chris Sobocinski, Delaware Park, Racing Information Coordinator
Bessie Gruwell, Executive Director, DTHA
Marcial Padilla, Delaware Park, Director of Human Resources
Nancy Myshko, Delaware Park, HR, Senior Vice President
Robert Colton, Delaware Jockey's Association, Director
Katie Davis, Jockey
Joseph Rocco, Jockey Agent
Molly Church, DTRC, Administrative Asst. (recording minutes)

**1. WELCOME & CALL TO ORDER**

At approximately 10:25 A.M., Chairman Patterson called the meeting to order.

**2. APPROVAL OF MINUTES (MARCH 8, 2017 DTRC MEETING)**

Upon a motion dully made (Killeen) and seconded (Decker), the minutes from the March 8, 2017 Commission meeting were approved. The vote was unanimous.

### 3. OLD BUSINESS

#### A. Publishing of New Rule 14.19.1 (Multiple Disqualifications) and Rule 14.20 (Dead Heats), Publishing of New Rule 15.22 (ARCI Veterinary Practices), Rule 15.23 (ARCI Prohibited Practices), Rule 15.24 (ARCI Out of Competition Rule), and Deletion of Reference to 'Stanozolol' in Rule 15.17.1.1

Mr. Andrew Kerber, Esq. asked if Mr. John Wayne received any comments on the proposed rule changes published March 1, 2017. Mr. Wayne replied that there were no comments made during this time. Commissioner Decker made a motion to approve these rule changes and publish them as final. Commissioner Levine seconded this motion. The vote was unanimous.

Rule 14.19.1 (Multiple Disqualifications) states:

"Should the stewards determine that there is more than one incident of interference in a race where the 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; except in the case where the same horses are involved in multiple incidents. Once a horse has been disqualified, it should remain placed behind the horse with which it interfered."

Rule 14.20 (Dead Heats) states:

(14.20.1) "When two horses run a dead heat for first place, all purses or prizes to which first and second horses would have been entitled shall be divided equally between them; and this applies in dividing all purses or prizes whatever the number of horses running a dead heat and whatever places for which the dead heat is run."

(14.20.2) "In a dead heat for first place, each horse involved shall be deemed a winner and liable to penalty for the amount it shall receive."

(14.20.3) "When dead heat is run for second place and objection is made to the winner of the race, and sustained, the horses which ran a dead heat shall be deemed to have run a dead heat for first place."

(14.20.4) "If the dividing owners cannot agree as to which of them is to have a cup or other prize which cannot be divided, the question shall be determined by lot by the stewards."

Rule 15.22 (ARCI Veterinary Practices Rule) states:

(15.22.1) "The Commission hereby adopts by reference the Association of Racing Commissioners International Veterinary Practices rule (ARCI-011-010, Model Rules v7.0, 2017). If there is any inconsistency between the Commission's regulations and the ARCI Veterinary Practices rule, the provisions of the Commission's regulations shall prevail."

Rule 15.23 (ARCI Prohibited Practices Rule) states:

(15.23.1) "The Commission hereby adopts by reference the Association of Racing Commissioners International Prohibited Practices rule including Annex I Prohibited Substances (ARCI 011-015, Model Rules v7.0, January 2017). If there is any inconsistency between the Commission's regulations and the ARCI Prohibited Practices rule, the provisions of the Commission's regulations shall prevail."

Rule 15.24 (ARCI Out of Competition Rule) states:

(15.21.14) "The Commission hereby adopts by reference the Association of Racing Commissioners International Out of Competition Testing rule (ARCI 022-010, Model Rules v7.0,

2017). If there is any inconsistency between the Commission's regulations and the ARCI Out of Competition Testing rule, the provisions of the Commission's regulations shall prevail."

Rule 15.17.1.1 now states:

"...With respect to nandrolone, boldenone, and testosterone in fillies, mares, and geldings (testosterone and nandrolone in intact male horse samples are treated separately in 15.17.1.2"

#### 4. NEW BUSINESS

At this time, Chairman Patterson asked Mr. Wayne to proceed with his Summary of Activities Report for March 2017.

#### 5. REPORT FROM DTRC EXECUTIVE DIRECTOR

Mr. Wayne spoke about the ROAP Meeting, which took place at Delaware Park on April 3-4, 2017. An article about the meeting was written in the THA Newsletter by Mr. Tom LaMarra. Mr. Wayne received many positive comments on the ROAP meeting, and was told it is the best Continuing Education class in the country. Mr. Wayne and Mr. Hugh Gallagher put together a solid agenda for the event. Secretary Michael Scuse and Mr. John Mooney both spoke at the meeting and Mr. Oliver Cleary, Esq. gave a presentation. There was a panel of Safety Stewards made up of Mr. Reese "Rug" Howard, Mr. Hugh Gallagher, Dr. Jennifer Durenberger, and Ms. Cynthia Smith.

##### A. Summary of Activities Report for March 2017

	<u>March 2017</u>	<u>Year-To-Date</u>
Number of Persons Fingerprinted	15	15
Fingerprint Fees Collected	\$1,185.00	\$1,185.00
DTRC Licenses Issued	282	928
Fines & Appeal Fees Collected	\$0.00	\$3,573.76
License Fees Collected	\$8,345.00	\$16,010.00

##### Other Statistics During August

ARCI National Surveys answered	4
Contacts from Police Agencies	17
Contacts from Video Lottery Enforcement	0
Freedom of Information Act Request for Info	0
National Racing Compact Reviews	2
National Racing Compact Applications Rec'd	5
Contacts from Racing Industry Groups	26
Contacts from other Racing Commissions	35
Contacts from other Race Associations	27
Contacts from the General Public	7
Contacts from Horsemen	26
Media Contacts	17
Contacts from Racing Officials Accreditation Program (ROAP)	35

#### 6. REPORT FROM DTRC CHIEF COMMISSION VETERINARIAN-HEALTH REPORT AND INFORMATION

Dr. Susan Botts started working again on in the beginning of April. She reports that there has been one case of herpes at a horse show in Maryland. She warned that owners and trainers should keep horses vaccinated and be vigilant. There have been no injuries on the track to Dr. Botts' knowledge. Chairman Patterson asked Dr. Botts if the main track was

open, and she replied that it is. Chairman Patterson asked how many horses are currently on the grounds. Dr. Botts wasn't sure at this time but Mr. Kevin DeLucia replied that there are 320. There are about 1,200 horses to be expected this year.

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

### **A. Delaware Certified Thoroughbred Program's Report**

Ms. Bessie Gruwell presented the statistics for the Delaware Certified Thoroughbred Program. She said there have not been too many changes since the last meeting. 20 horses were enrolled into the program in the first quarter of the year. The Delaware Certified Special Account is at a monthly balance of \$1,309,755.81.

Additionally, Ms. Gruwell also noted that in the Condition Book, many of the therapeutic medications are listed by their trade names and not by what trainers actually call them. Many trainers are encountering problems with this, so Ms. Gruwell will be speaking to Mr. Mooney about having the layman's terms for some of these medications in parentheses to clear up any confusion. Chairman Patterson recommended that she check the THA website and make sure that the Condition Book is consistent with the terms used there.

Ms. Gruwell also asked the Commission when the Stewards would be coming back to work. Exercise riders and jockeys have been trying to get licensed but they haven't been able to, because all riders must be approved by Stewards before they may be licensed. Chairman Patterson said that all Stewards begin working on May 1<sup>st</sup>. Steward Fritz Burkhardt was present at this meeting but has still not been recalled back for work. Chairman Patterson asked Mr. Burkhardt how much of a problem this situation is. Mr. Burkhardt answered that it is a problem. For example, there was an apprentice jockey who came from Pennsylvania with his agent and he could not be licensed. This has been happening with other riders as well. Chairman Patterson asked Mr. Wayne what a possible solution could be for this. Mr. Wayne said that if the Commission wanted, Mr. Burkhardt could come back to work as soon as possible. Mr. Burkhardt agreed to this. Commissioner Levine suggested that in 2018, we keep this in mind as to not repeat the problem. Mr. Wayne said that he did recommend that one Steward come back in the beginning of April, like Dr. Botts did.

Ms. Gruwell also asked the Commission about Inspector Fran Swift. Mr. Swift has had health issues and has been unable to work. Ms. Gruwell said that Fran is majorly helpful to the Horsemen. Chairman Patterson said that they have hired an Investigator who is very qualified and whom most of the Horsemen may even know. The Commissioners will be going into Executive Session before they make a public announcement. Mr. Burkhardt said that Mr. Swift will be back in two weeks. Mr. Burkhardt reported that Mr. Swift seemed to be doing better. Ms. Gruwell said that Mr. Swift is greatly missed and Mr. Burkhardt agreed and said that Mr. Swift really understands the racing business.

## 8. PUBLIC COMMENT

At this time, jockey Katie Davis spoke to the Commission. Towards the end of the 2016 meet, Ms. Davis received a 7 day suspension for crowding another jockey. Ms. Davis has concerns about the fact that trainers can take their days when the meet is not on, but jockeys have to wait to take their days until the meet *is* on. This is unfair because trainers can always run under a different name but it isn't possible for jockeys to do this. Chairman Patterson answered that they have made it a policy, though not a strict policy, that jockeys and trainers should take their days at the beginning of the Delaware meet. Based on certain circumstances, the Commission has modified this policy a little, mostly with trainers. Chairman Patterson gave an example in which a trainer wanted to win the title of Leading Trainer for the year, so he fought his suspension for a Clenbuterol positive, not because he was not guilty, but so he could keep his title. He gave another example in which a trainer received many days, which penalized him because he races all over the country. Chairman Patterson explained that they issue the days for trainers on a case-by-case basis. However, most riders are told to take their days at the beginning of the meet. Ms. Davis said that she is riding in Laurel right now, and if she waits for Delaware's meet to start her days, she will miss 7 days of racing without pay. Mr. Colton asked the Commission if this rule was in effect for non-appeal days, because Ms. Davis did not appeal those days. Ms. Davis' infraction occurred the second-to-last day of the 2016 meet. Chairman Patterson said that they do not typically modify the rule if the days are not appealed. Mr. Colton asked Mr. Burkhardt how soon jockeys usually start days after the Stewards' ruling. Mr. Burkhardt answered that they usually let the jockeys ride the overnight. Mr. Heriberto Rivera said that Ms. Davis should have been able to serve the days after the 2016 meet instead of at the beginning of the 2017 meet, because she would have had nothing to gain from waiting until the beginning of the 2017 meet, unlike the trainer Chairman Patterson had referenced earlier who prolonged his time until his suspension so he could get Leading Trainer. Also, Ms. Davis was riding elsewhere at the time and would still get penalized for it either way. Commissioner Decker said that even though this may be the case, it is the Commission's inclination to have jockeys serve their days at the beginning of the meet. Commissioner Killeen asked Mr. Rivera what he would have suggested happen in this case. Mr. Rivera answered that Ms. Davis should have been given 7 calendar days instead of 7 racing days. Commissioner Stegemeier said that it is hard for the Commission to anticipate what jockeys are going to do. There are some jockeys who ride all over the country and some jockeys who ride mainly in Delaware. Commissioner Stegemeier said that this issue should have been dealt with at the time it occurred because the Commission has no way of knowing that Ms. Davis was planning to ride anywhere else after the Delaware meet ended. Ms. Davis' jockey agent, Mr. Joseph Rocco, said that the only reason they are confronting this situation now is because there are currently trainers who are still making money during their suspension by racing horses under another name, and this is not fair to jockeys, who are unable to do that. Chairman Patterson recognized that trainers who

are suspended yet run under a different name is a problem in racing and the horse racing industry is nationally wrestling with this issue. Chairman Patterson said to Mr. Rocco that had Ms. Davis appealed the days that were given, the Commission may have reconsidered; even though that is doubtful because this has been the Commission's usual policy over the years. Mr. Rocco and Ms. Davis said they understood, but they had just been hoping that with the meet starting later in the year at Delaware that they may be able to get it changed. Commissioner Killeen asked Ms. Davis how she scheduled her rides after the issue of her days. Ms. Davis answered that she rode at other tracks, knowing that she would not be able to ride for 7 days at the beginning of Delaware's meet. She also noted that she had never been suspended prior to this time. Mr. Burkhardt said that they can speak more about this issue at the beginning of the meet. Chairman Patterson wished Ms. Davis the best of luck and told her that the days are going to stand and she will have to serve them at the beginning of the meet in June. Commissioner Levine reiterated to Ms. Davis that even though it maybe shouldn't be that way, penalties for trainers and jockeys are often regulated differently and emphasized Ms. Davis' validity in her statement that jockeys can't possibly go under another name in the program in the way that a trainer can. This is a very broad and well publicized national problem right now in racing. Commissioner Killeen thanked Ms. Davis and Mr. Rocco for bringing this to the Commission's attention and Ms. Davis and Mr. Rocco thanked the Commission for their time.

Commissioner Decker asked Mr. Fasy to re-brief them on any legal changes or updates regarding advance deposit wagering. Mr. Fasy says that he feels as if everyone has been supportive of advance deposit wagering. He does, however, need the support of the racing commission. Chairman Patterson asked Mr. Kerber if it would be appropriate to give the Commission's approval now, and Mr. Kerber said it was. Commissioner Decker moved to approve advance deposit wagering and Commissioner Killeen seconded. Mr. Fasy said that in the process of sending it around to everyone, Dover Downs brought up a Constitutional issue that Delaware Park's attorneys had missed.

Both the Harness and the Thoroughbreds' Horsemen's Associations said that they support advance deposit wagering, however, their lobbyist (attorney and former chief-of-staff for Governor Markell) also mentioned the Constitutional issue. Mr. Fasy asked him if Delaware Park could get his idea on how to go about resolving the issue. This issue affects us because Delaware has a new general assembly, so it will take two separate general assemblies to vote on it. Mr. Fasy is just currently waiting on all parties to give him their comments about advance deposit wagering to strategize an approach to solving this issue.

The Constitutional issue is the reference to language in the proposal related to gambling (Gambling is only allowed through the Lottery and pari-mutuel racing). The racetrack and the horsemen are sensitive to this type of language because it doesn't give the opportunity to expand. Chairman Patterson asked what motion Mr. Fasy needed from Commission. Mr. Fasy said that he needed to know whether the Commission wanted to change any language in the proposal or keep it as is, subject to how it will change

constitutionally. Chairman Patterson said the Commission had not read the language, but he was a little familiar with it because of being sent the language from Minnesota regarding this issue. Mr. Fasy said it would be different because Delaware's law is different from Minnesota law in that Delaware put in all the details of the particular process and regulations that will be promulgated by the Commission, rather than having all the details in the statute. It is simpler to change the law and then have the regulations promulgated by the Commission, whether they approve or disapprove. Commissioner Levine said that the Commission could not approve any specific language because they didn't know what the language was. Commissioner Levine added that the Commission is conceptually in favor of advance deposit wagering, but they could not vote on the language if they had not read it yet. Mr. Fasy said that right now he is just trying to gather comments from the racing industry regarding advance deposit wagering based on what they already know about it so then once Constitutional changes are made, Mr. Fasy can present it back to the Commission. Chairman Patterson has spoken with Mr. Tom DiPasquale of the Minnesota Racing Commission, where they are currently going through the same issue. Mr. DiPasquale shared the language in their proposal with Chairman Patterson. Commissioner Levine asked Mr. Fasy if the Commission could approve advance deposit wagering conceptually until they get to read the language. Mr. Fasy said he would be comfortable with that, but asked Commissioner Levine if they could review the information they have on it and point out any issues they have problems with. Commissioner Levine said they would do this and have it ready for the next meeting. Commissioner Stegemeier told Mr. Fasy that he was a little uncomfortable doing that because he felt that the Commission giving that sort of approval would put pressure on other racing groups to either approve or disapprove. He sees it as a business decision and feels that the job of the commission is to regulate the product, not regulate the business. Chairman Stegemeier said that if Delaware Park is in agreement to do advance deposit wagering, then they should move forward with it. Chairman Patterson reminded Commissioner Stegemeier that we are only one of the few states in the country to not have it, and the only state in the Mid-Atlantic to not have it. Mr. Fasy has said that Secretary Scuse's office and the Governor's office is okay with advanced deposit wagering as long as it is Constitutionally correct. Chairman Patterson asked Mr. Fasy if they could make a motion at the next meeting to approve the language, subject to review of the final documents. Mr. Fasy said that if he can get it done by the next meeting, he will present it to the Commission for approval. Commissioner Stegemeier made a move to approve this conceptually. Commissioner Killeen seconded. The vote was unanimous.

Before moving on to executive session, Secretary Scuse said that the Commission has been given approval to hire everyone they need to start the meet with.

Mr. Chris Sobocinski announced that on May 31 at 1:00 PM, there will be an opening day press conference and requested that Chairman Patterson speak at it.

Mr. Colton informed the Commissioners that the Delaware Jockey's Health and Welfare Benefits Board approved a contract with the University of Delaware to bring a full time athletic trainer to the jockey's room at Delaware Park.

#### **9. EXECUTIVE SESSION**

Upon a motion duly made (Decker) and seconded (Levine), public session was moved to executive session at approximately 11:11 P.M., which took place in the Administrative Office.

#### **10. ADJOURNMENT**

Upon a motion duly made (Decker) and seconded (Levine) executive session was moved back to public session. Public session was adjourned at approximately 12:26 P.M.



Bessie's DCTP Report April 13, 2017  
Yearly Stats and Amounts

2017 DCTP Applications	Weanlings	Yearlings	Total
Jan - Mar	0	20	20
Apr - Jun	0	0	0
July - Sept	0	0	0
Oct - Dec	0	0	0
Total Applications	0	20	20

  

2016 DCTP Applications	Weanlings	Yearlings	Total
Jan - Mar	1	20	21
Apr - Jun	2	24	26
July - Sept	14	33	47
Oct - Dec	38	93	131
Total Applications	55	170	225

  

2015 DCTP Applications	Weanlings	Yearlings	Totals
Jan - Mar	0	15	15
Apr - Jun	0	28	28
Jul - Sept	14	40	54
Oct - Dec	33	65	98
Total Applications	47	148	195

  

2014 DCTP Applications	Weanlings	Yearlings	Totals
Jan - Mar	0	27	27
Apr - Jun	4	39	43
Jul - Sept	19	49	68
Oct - Dec	30	58	88
Total Applications	53	173	226

  

2013 DCTP Applications	Weanlings	Yearlings	Totals
Jan - Mar	2	15	17
Apr - Jun	1	35	36
July - Sept	8	32	40
Oct - Dec	50	84	134
Total Applications	61	166	227

Total Applications to date 4006  
Total 2 Yr olds for 2017 - 228

Bessie's DCTP Report April 13, 2017  
Yearly Stats and Amounts

2015	Certifier Amount	Owner Amount	Total for Month
May	\$ 40,420.00	\$ 40,420.00	\$ 80,840.00
June	\$ 106,880.00	\$ 106,880.00	\$ 213,760.00
July	\$ 76,345.00	\$ 76,345.00	\$ 152,690.00
August	\$ 92,220.00	\$ 92,220.00	\$ 184,440.00
Sept	\$ 131,407.50	\$ 78,157.50	\$ 209,565.00
Oct	\$ 49,727.50	\$ 49,727.50	\$ 99,455.00
Dec (DQ ruling)	\$ 2,500.00	\$ 2,500.00	\$ 5,000.00
	\$ 499,500.00	\$ 446,250.00	\$ 945,750.00

2016	Certifier Amount	Owner Amount	Total for Month
May	\$ 30,335.00	\$ 30,335.00	\$ 60,670.00
June	\$ 63,418.75	\$ 63,418.75	\$ 126,837.50
July	\$ 63,065.00	\$ 63,065.00	\$ 126,130.00
August	\$ 76,995.00	\$ 76,995.00	\$ 153,990.00
Sept	\$ 100,686.87	\$ 47,436.87	\$ 148,123.74
Oct	\$ 40,597.50	\$ 40,597.50	\$ 81,195.00
Dec (Correction)	\$ 935.00	\$ 935.00	\$ 1,870.00
	\$ 376,033.12	\$ 322,783.12	\$ 698,816.24
		Total	\$ 698,816.24

Delaware Certified Special Acct -Monthly Balance - 2016

	Transactions	Balance
Oct Bonus	\$ (81,195.00)	\$ 360,441.72
Oct Interest	\$ 140.00	\$ 360,581.72
Nov interest	\$ 101.68	\$ 360,683.40
Dec (Correction)	\$ 1,870.00	\$ 358,813.40
Dec interest	\$ 91.33	\$ 358,904.73

**Delaware Certified Special Acct - Monthly Balance - 2017**

January	\$ 1,000,000.00	\$1,358,904.73
January-5%	\$ (50,000.00)	\$1,308,904.73
January Interest	\$ 195.55	\$1,309,100.28
February Interest	\$ 300.86	\$1,309,401.14
March Interest	\$ 354.67	\$1,309,755.81

Bessie's DCTP Report April 2017

Yearly Stats and Amounts

Year	# of Starters	# of Starts	1st	2nd	3rd	25% Cert	25% Owner	Totals
2017								
2016	204	631	73	86	93	\$ 376,033.12	\$ 322,783.12	\$ 698,816.24
2015	240	709	97	106	115	\$ 446,250.00	\$ 499,500.00	\$ 945,750.00
2014	271	779	105	105	112	\$ 478,120.75	\$ 531,371.57	\$ 1,009,492.32
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
								\$ 10,851,311.18