



**Delaware Thoroughbred Racing Commission
Minutes of Meeting Held On
January 16, 2019**

The Delaware Thoroughbred Racing Commission held a meeting on Wednesday, January 16, 2019, at 11:05 a.m., in the Conference Room of the Delaware Department of Agriculture, at 2320 South duPont Highway, Dover, Delaware 19901.

The following Commission members were present:

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

The following individuals also were present:

Michael T. Scuse, DDA, Secretary of Agriculture
John F. Wayne, DTRC, Executive Director
Andrew Kerber, Esq., Deputy Attorney General
Frederick L. Burkhardt, Chief Steward
Sarah Crane, DTRC, Inspector
Dr. Susan Botts, DTRC, Chief Commission Veterinarian
Dr. Virginia Gillam, DTRC, Commission Veterinarian
John E. Mooney, Executive Director of Racing, Delaware Park
Kevin DeLucia, Sr. Vice President & CFO, Racing-Administration, Delaware Park
Chris Sobocinski, Racing Information Coordinator, Delaware Park
Jeff Ganc, Security, Delaware Park
Bessie Gruwell, DTHA, Executive Director
Robert Colton, Delaware Jockeys' Association
Samantha Cutrone, Athletic Trainer, Premier Physical Therapy and Sports Performance
Molly Church, DTRC, Administrative Asst. (Recording Minutes)

1. WELCOME & CALL TO ORDER

At approximately 11:13 A.M., Chairman Duncan Patterson called the meeting to order.

2. APPROVAL OF MINUTES (NOVEMBER 14, 2018 MEETING)

Upon a motion duly made (Killeen) and seconded (Stegemeier), the minutes from the November 14, 2018 meeting were unanimously approved.

3. DECISION AND ORDER

**A. Mr. Mark Powell – Appeal of Stewards Ruling 92-2018
Conduct Detrimental to Racing – 5 Year Suspension and \$2,500.00 Fine (DTRC Rules 2.5,
2.5.1.13, 2.5.1.4, 3.4.1, 3.4.1.3, 3.4.1.7, and 3.4.1.15) reduced to 53 week suspension and
\$2,500.00 Fine**

At this time, Mr. Andrew Kerber presented the Commissioners with a Decision and Order for Mr. Mark Powell in regards to his Appeal of Stewards' Ruling 92-2018. Mr. Powell had previously appealed a ruling for Conduct Detrimental to Racing with a penalty of a 5 year suspension and a \$2,500.00 fine at the November 14, 2018 DTRC Meeting. Upon testimony and deliberation, the Commission unanimously voted to reduce Mr. Powell's suspension to 53 weeks and a \$2,500.00 fine. At this time, the Commissioners signed Mr. Powell's Decision and Order.

Mr. John Wayne announced that the Stewards will hold another hearing in reference to the five races that the two horses in Mr. Powell's ruling were involved in. The Stewards may have to reverse the order of finish on those races and disqualify the two horses since they did not match the Arabian DNA samples, as indicated by the Arabian Horse Association and the Arabian Jockey Club. Commissioner Richard Levine asked about the purses for these races and whether or not they are still being held. Mr. Wayne said that they are still being held.

4. OLD BUSINESS

Commissioner Debra Killeen referred to DTRC Rule 8.2.10, which states that jockeys may use their mobile devices in the Jockeys' Room subject to certain provisions. She asked Mr. Kerber about the language in the rule that mentions headphones. She noted that some individuals may choose to use earbuds instead of headphones, and wondered if that should be mentioned in the rule. Mr. Kerber answered that the term headphones should include any device that would block outside sound. Mr. Kerber did not suggest modifying the rule, but he did suggest that Mr. Wayne put a sign in the Jockeys' Room that states that "headphones" are to include earbuds or other sound listening devices.

5. NEW BUSINESS

A. Application for Live Racing Dates - 2019

At this time, Chairman Patterson presented a letter to the Commissioners from the Delaware Racing Association written by Kevin DeLucia. The Association is requesting approval for 85 live racing days, commencing Saturday, May 4th, and concluding on Saturday, October 5th, 2019. The 85 day meet will consist of racing four days per week on Mondays, Wednesdays, Thursdays, and Saturdays. The exception to the weekly schedule is there will be no live racing on the following Thursdays: May 9th, May 16th, May 23rd, and October 3rd. Upon a motion duly made (Decker), and seconded (Stegemeier), the application for live racing dates in 2019 was unanimously approved. Secretary-Commissioner Edward Stegemeier asked how many races Delaware Park was planning on running each race day. Mr. DeLucia answered that it would be dependent upon how entries are filled. Mr. John Mooney answered that Delaware Park tries to run about 10 with an Arabian race, but it has been difficult to fill that many races in a day due to a shortage of horses.

B. Approval of Live Racing License

At this time, Chairman Patterson presented a license for the Commission to sign in order to approve Delaware Park's live racing license. Upon a motion duly made (Stegemeier) and

seconded (Levine), the Commission unanimously approved and signed Delaware Park's live racing license.

C. Electrolytes on Race Day

At the last Commission meeting, the Commission talked about approving the administration of electrolytes on race day. Ms. Bessie Gruwell, who was not present at the last meeting, said that she is also in favor of allowing electrolytes on race day.

Commissioner Decker asked the Commission why they would allow electrolytes, which hydrate horses, but then also allow Salix, which dehydrates them. He asked for insight from the Commission veterinarians. Dr. Susan Botts replied that administering electrolytes will keep horses from getting dehydrated, but they will also provide potassium, magnesium, and other essential nutrients which will keep horses from collapsing due to dehydration. Dr. Botts said that electrolytes help stop dehydration, while Salix stops bleeding, so they are both necessary.

Dr. Virginia Gillam added that electrolytes also counteract the dehydration from Salix administration, because when a horse urinates after Salix administration, they lose not only water, but many nutrients also, such as potassium and magnesium. An electrolyte paste would help in this matter. Ms. Gruwell added that the electrolytes also aid in muscle recovery after races.

Chairman Patterson asked if the Commission should create a rule in order to allow electrolytes. Commissioner Decker said that he would prefer if there was a Commission rule that also clearly stated that no other substances are to be used in conjunction with the electrolytes within 24 hours, such as caffeine.

Mr. Wayne suggested that the rule should clarify that only electrolytes "that do not cause a positive test result" may be used. Dr. Botts also suggested that the electrolytes should have a manufactured label.

DTRC Inspector Sarah Crane asked if there would be a constituent in the rule that declares who should be the one administering the electrolytes. In her experience in New Mexico, electrolytes were administered by the person who also administered Salix at the same time. Every horse received the same electrolyte paste and it is well documented about who received it and who did not. Inspector Crane expressed concerns about the use of many different types of electrolyte pastes, which could result in a rise of positives. She asked how inspectors are supposed to know what kind of treatment is being administered when they are doing barn checks in the backside. Will the Commission have to take samples of each electrolyte substance that is seen being given to horses in order to determine that they do not contain any other substances? DTRC Steward Frederick Burkhardt suggested that perhaps only Commission veterinarians be allowed to administer electrolytes during the time of Salix.

Secretary of Agriculture Michael Scuse told Chairman Patterson that what Ms. Crane and Mr. Burkhardt are suggesting may eliminate the potential of several problems.

Mr. Kerber suggested that Commission veterinarians agree on one specific type of electrolyte paste to use, so that there will be no questions as to whether or not the said paste contains any other substances.

Mr. John Mooney expressed concern that the Salix veterinarian may not have time to also administer electrolytes in addition to the Salix. Dr. Gillam said that trainers may not like to be told that their horses have to receive electrolyte paste at a specific time every race day. She thinks it would be beneficial to administer them earlier in the day when they horse can also drink some water with it which will help the electrolytes be absorbed better.

Mr. Kerber said that he will be able to draft a rule that he can present at the next Commission meeting. Commissioner Decker asked him to also include Mr. Wayne's phrase "...electrolytes that do not cause a positive test result".

Chairman Patterson suggested that the Commission defer approval pending Mr. Kerber's draft. The Commission agreed. Chairman Patterson also said that he would like to have this rule in place before the 2019 racing meet. Mr. Kerber said that this is not possible. Chairman Patterson suggested that Delaware Park put a house rule in place about the administration of electrolytes, and then it could later be converted into a Commission rule. Secretary Scuse said that doing this would ensure that the rule could still be in place when the meet starts. The Commission agreed, and Mr. Mooney did also.

D. Report of ARCI Meetings in Tucson, AZ

At this time, Chairman Patterson reported on his findings from the ARCI meetings in Tucson, AZ in December. He said that the paddock blacksmith and the photo finish operator are no longer considered racing officials.

Foal certificates will be converted to microchips.

Cannabis drugs such as CBD, THC, and Cardarine, were newly classified. CBD is classified as Class 3 with B penalty, THC is Class 1 with A penalty, and Cardarine is Class 2 with an A penalty.

Also, in some jurisdictions, including Delaware, if a horse wins a race and then tests positive, the second horse is considered the winner. ARCI just passed a model rule stating that if there is a positive test, the winner remains the winner, 2nd remains 2nd, etc., until the positives are adjudicated, including any possible appeals. This is a topic that Chairman Patterson would like to discuss at the next Commission meeting.

Another issue discussed at the ARCI meeting was that coupled entries with the same ownership are being uncoupled.

Baseline testing was also discussed at the ARCI meeting. Chairman Patterson asked Mr. Robert Colton if Delaware is taking part in baseline testing. Mr. Colton answered that he and Athletic Trainer Samantha Cutrone will be attending an event in Maryland the next day to discuss this with Dr. Kelly Ryan.

Also at the meeting, board members voted for a breed only ban of Albuterol. Previously, the American Quarter Horse Association also banned Clenbuterol. Chairman Patterson stated that he would not be surprised to see this also happen in thoroughbred racing.

Finally, Chairman Patterson noted that there was a presentation at the meeting from Longitude LLC about single pool wagering.

Mr. Wayne added that at the Symposium, he was interviewed by the University of Arizona students. When asked what he takes from industry meetings such as the Symposium, Mr. Wayne answered that "Hope cannot be your strategy" – meaning that appropriate efforts need to be made to make racing fun, more accessible, and to keep Commissions as transparent as possible.

6. Report from DTRC Executive Director

A. Summary of Activities Report for November/December 2018

At this time, Mr. Wayne presented his Summary of Activities report for the year of 2018.

	<u>Year-To-Date</u>
Number of Persons Fingerprinted	514
Fingerprint Fees Collected	\$40,606.00
DTRC Licenses Issued	4,230
Fines & Appeal Fees Collected	\$27,263.99
License Fees Collected	\$161,185.00

35 National Surveys from ARCI
 147 Horsemen Contacts
 12 Video Lottery Enforcement Unit (VLEU) Contacts
 151 Contacts from other Commissions
 84 Police & Law Enforcement Contacts
 129 ROAP Contacts
 11 Review of National Racing Compact Application
 223 Total National Racing Compact Applications Received (Delaware)
 77 Industry Contacts
 57 Racing Association Contacts
 65 Media Contacts
 1 FOIA Request
 57 Public Contacts

Mr. Wayne was asked by the University of Arizona to teach some classes. He asked the Commission and the Secretary of Agriculture if he could be permitted to go. Secretary Scuse told him he could. Chairman Patterson congratulated Mr. Wayne on the opportunity.

7. REPORT FROM DTRC CHIEF COMMISSION VETERINARIAN – HEALTH REPORT AND INFORMATION

At this time, Dr. Botts had no new information to report.

8. REPORT FROM THOROUGHBRED HORSEMEN’S ASSOCIATION

A. Delaware Certified Thoroughbred Program Report

Ms. Gruwell announced that for 2018, the number of applications received was 292. The Program was very busy in December. In the last quarter of the year, 135 yearlings and 51 weanlings came into the program. She estimates that about half of them came in during the last two weeks of December. Secretary-Commissioner Stegemeier asked her what she attributes this to. Ms. Gruwell answered that a large number of horses came into the Program from Texas. Trainer Jerenesto Torrez has owners who are interested in the additional bonuses from being in the Program. There are also some new first-time applications brought into the Program also.

She also explained that the Program has done more advertising. The Program now advertises in the sales catalog and Ms. Gruwell passed out flyers at the sales in Timonium. She believes more people are seeing the incentives of being in the Program.

In 2018, the final payout from the Program was \$1,082,685.00. 292 different horses started 694 times, with 104 firsts, 100 seconds, and 119 thirds.

The balance of the special account is now at \$1,350,662.13.

9. PUBLIC COMMENT

At this time, Secretary-Commissioner Stegemeier commented that the Delaware Jockeys' Health and Welfare Benefits Board, which was held right before today's Commission meeting, is financially solid. He commended Mr. Colton for all his hard work with communicating with insurance companies and bringing jockeys into the program.

Mr. Mooney noted that the Racing Office is currently working on the 2019 condition book. He also stated that there will be a new Racing Secretary this year at Delaware Park. His name is Tom Creel.

Mr. DeLucia announced that Delaware Park signed a 3-year contract with the Delaware Thoroughbred Horsemen's Association. He thanked Ms. Gruwell, Mr. Scott Peck, and the rest of the Committee.

Secretary-Commissioner Stegemeier asked about the state of sports betting. Mr. DeLucia answered that the amount held from wagers is about 1.5-2 times the Las Vegas average. Delaware Park is in about the 12% hold range. 8-8.5% has been projected since Delaware is a new market for sports betting. Sports betting currently represents 3-4% of the revenue and has helped contribute to purses for the next meet.

Commissioner Decker asked if the Super Bowl is the main event of the year for sports betting. Mr. DeLucia answered to the affirmative. He asked about revenue from the slots machines. Mr. DeLucia answered that it has remained steady. Ms. Gruwell added that the purse account is in the best condition it has been in since about 2009.

Chairman Patterson welcomed Heriberto Rivera, Jr., who is with the Jockey's Guild and sits on the Delaware Jockey Health and Welfare Benefits Board. He also introduced Samantha Cutrone, Athletic Trainer for the jockeys. Ms. Cutrone announced that she is looking forward to another meet at Delaware Park in 2019.

10. EXECUTIVE SESSION

Upon a motion duly made (Killeen) and seconded (Decker), public session was adjourned at 12:09 pm and was moved to executive session in the Secretary's Conference Room at approximately 12:30 am to discuss personnel matters.

11. ADJOURNMENT

Upon a motion duly made (Killeen) and seconded (Decker), public session was moved back to order at 1:10 pm and adjourned at approximately 1:11 pm.