



Delaware Thoroughbred Racing Commission
Minutes of Meeting Held On
April 15, 2020

The Delaware Thoroughbred Racing Commission held a Public meeting on Wednesday April 15, 2020, at 10:00 am via Skype® for business

The following Commission members were present on the call:

W. Duncan Patterson, Jr., Chairman
Edward Stegemeier, Secretary-Commissioner
Richard A Levine, Esq, Commissioner
Henry J. Decker, Commissioner
Debra M. Killeen, Commissioner
Sarah Crane, Acting Executive Director
Andrew Kerber, Deputy Attorney General
Michael T. Scuse, DDA Secretary of Agriculture

The following individuals also were present on the call:

Bill Fasy, President, Delaware Park
Robert Colton, Steward, DTBC
Eric Coatrieux, Safety Steward, DTBC
Susan Botts, Commission Veterinarian, DTBC
Ginny Gilliam, Commission Veterinarian, DTBC
Bessie Gruwell, Executive Director DTHA
Scott Peck, DTHA
Kevin DeLucia, CFO, Delaware Park
John Mooney, Executive Director-Racing, Delaware Park
Kadijah Smith, Administrative Assistant, DTBC

1. WELCOME & CALL TO ORDER

At approximately 10:00 A.M., Chairman Duncan Patterson called the meeting to order.

2. APPROVAL OF MINUTES (March 10, 2020 MEETING)

Upon a motion duly made by Commissioner Killen and seconded by Commissioner Levine, the minutes from the March 10, 2020 meeting were unanimously approved.

3. Report from DTBC Commission Veterinarian – Health Report and Information

A. Rule on Altering the Sex of a Horse

Dr. Botts went over the handout from NYTHA regarding their rule change on Altering the Sex of a Horse. She suggested that DTRC do the same thing, particularly if it is going to be a criterion for voiding claims at some point. The information and the form to be used was included in the commissioners meeting packets. The form would go to the trainer or the Vet of the trainer to fill out the date, the horse's information and when the horse is gelded, to be turned into the Racing Secretary's Office. She asked the commissioner to discuss and see if it is something they want to do.

Chairman Patterson responded that almost every track is doing it. He explained that a lot of bettors' use it as a betting angle for 1st time gelded. He felt it was important that the commission adopt the rule. He believed it could be done as a house rule and deferred to Deputy Attorney General Kerber for his wisdom.

Deputy Attorney General Kerber agreed with Chairman Patterson, who then asked Mr. Mooney if he had an issue with the house rule. Mr. Mooney had no issue with adding as a house Rule.

B. Lasix Administration Rule

Dr. Botts wanted to know if the commission was going to adopt the 4 to 4 ½ hr. Lasix Administration rule. Most jurisdictions are following this rule. If so, Mr. Mooney would need to know as it would need to be changed in his condition book.

Chairman Patterson noted that DTRC currently uses 3 ½ hrs. most other jurisdictions are at 4 hrs. he wants the Commission to be consistent with other jurisdictions within the Mid-Atlantic region. He conferred with Mr. Mooney about his feelings on the proposed time change. Mr. Mooney did not see where it made any difference. He could not recall of any problem with the current 3 ½ hr. timeframe, if the commission wants to proceed with making it 4hrs. people who ship here would need to know.

Chairman Patterson conferred with Deputy Attorney General Kerber about making it a rule change. Mr. Kerber advised that If it is a house rule then a rule change would not be needed. Chairman Patterson felt it would be simpler to make it a House Rule. He also questioned the flexibility for ship-ins who show up late. Dr. Botts advised Parx, Laurel did not and was not sure about Penn National. Chairman Patterson was more concerned about Laurel and Parx. He felt it would be easier to make the Lasix and the Altering Sex rule a house rule.

Commissioner Stegemeier had no problem with any of the changes.

Commissioner Killen wondered if there was going to be any problem getting the information out to the horseman.

Chairman Patterson commented that it would be incumbent upon Mrs. Gruwell and Mr. Mooney to get the information out.

Mrs. Gruwell thinks that everyone is going to be following the same timeframe and it will just need to be put out. She suggested that Mr. Mooney could post it on the overnights.

Chairman Patterson advised Acting Executive Director Sarah Crane to notify Dr. Baldwin of the change.

C. Best Practice (Bio Security)

Based on suggestions in the best practices guide, the Flu and Rhino vaccination date when a horse ships in is 6 months, DTRC currently uses 120 days. It is noted that there is also a requirement for Eastern and Western Encephalomyelitis which come together in a vaccine, Tetanus, as well as West Nile and Rabies. Dr. Botts felt that all

horses should be rabies vaccinated. Based on the guide, they are requiring these vaccines as a best practice. She asked what the Commission and Mr. Mooney thought of it.

Chairman Patterson asked Dr. Botts for her recommendation. She advised that they always recommended that they have all of them, it just wasn't mandatory. Dr. Botts stated there are mosquitos therefore West Nile is in this area. She really thinks that rabies should be added because of the number of wildlife in the vicinity, potentially exposing people.

Chairman Patterson asked Mr. Mooney for his comments. He responded that a lot of horses that would be shipping in would not have all the vaccinations when they arrive. There would be an issue in tracking where and when they got them and with whom.

Dr. Botts suggested limiting the mandate to Flu, Rhino and Rabies and have it added to the condition book. Mr. Mooney advised there are already 8 recommendations listed in the condition book.

Chairman Patterson asked the commission if they should continue with strongly recommended. Commissioner Stegemeier agreed with Mr. Mooney, he felt it would be a massive job to track down when it came to ship-ins. Chairman Patterson agreed, and suggested that it be kept as strongly recommended. Dr. Botts had no objection to keeping it the same.

4. OLD BUSINESS

Signing of Decision and Order Regarding David Neilson Appeal 131-2019 Signing of Decision and Order Regarding Anthony Pecoraro 132-2019

Deputy Attorney General Kerber is waiting to consult with individuals from the Justice Department who were at the meeting. He does not have the information to write the decisions. Due to the Covid-19 pandemic a lot of people are working from home. He will figure out how to coordinate with Mary Page to get it done.

Proposed rule changes in conjunction with the ARCI Model Rules that were discussed at the January 22, 2020 meeting.

Chairman Patterson reminded the Commissioners of the proposed rule changes from the January 2020 DTRC Meeting.

Deputy Attorney General Kerber advised all the rules have been published as proposed in the April 1st Edition of the Register of Regulations. There is a 30-day comment period and after that the Commission can approve them as final. Then it will be republished and take effect 10 days after republication.

Commissioner Decker asked where the ARCI is at with compounded drugs.

Chairman Patterson advised it was a difficult question to answer. Most compounded drugs are not approved, they are prohibited drugs. Anything that is not FDA approved has to have a test. Without a test the FDA will not approve. The test could take up to 6 months and cost up to \$50,000 to \$100,000. The issue is the use of compounding drugs which there are no test for.

5. Covid-19 Protocol

Acting Executive Director Sarah Crane provided an update on the restrictions that were initially issued back in March, noting that not much has changed. Everything is going smoothly, however, the new restriction with, out of state persons traveling to Delaware Park has been a little difficult. Knowing what to do with those individuals who were in

route prior to the change once they got here. Those individuals self-quarantined in Delaware for 14 days and had to provide proof that they had done so. They then went through the regular health screening as normal and allowed to be licensed so they could care for their horses on the backside of the property. Things have slowed down quite a bit. There are not a lot of people or horses coming in.

Mrs. Gruwell added that things are running smooth. She, Mrs. Crane and Safety Steward Eric Coatrieux have worked quite a bit together. Once everyone realizes what they are doing, they come in get their temperature checked.

Mrs. Crane also added that the overall reception from the horsemen has not been negative. She gets more gratitude than complaints. They are grateful they have somewhere to go and that precautions are being taken.

6. Report from DTRC Executive Director

A. Summary of Activities Report for March 2020

Acting Executive Director Sarah Crane presented a Summary of Activities report for the month of March 2020.

Year-To-Date

Number of Persons Fingerprinted	36
Fingerprint Fees Collected	\$2,844.00
DTRC Licenses Issued (237 this month)	\$1,068.00
Fines & Appeal Fees Collected	\$0.00
License Fees Collected or Billed	\$5,815.00

0 National Surveys from ARCI

2 Investigations

0 Review of National Racing Compact Application

11 Total National Racing Compact Applications Received (Delaware)

18 Incident Reports (Delaware Park Security Department)

0 Horse Monitoring

0 Mortality Reviews

0 Video Lottery Enforcement Unit (VLEU) Contacts

0 FOIA Request

0 Media Contacts

The Jockey Club and ROAP-The ROAP Continuing Education meeting that was scheduled on March 30th and 31st has been postponed until further notice.

4 Racing Association Contacts

Horsemen Inquiries- There were several inquiries due to the Covid-19 pandemic

0 Public Relations

7. Report from Thoroughbred Horsemen's Association

Mrs. Gruwell reported, 8 applications have been received year to date.

Revenue of \$677.09 in interest has been received for March and \$912.22 for February.

Mrs. Gruwell advised due to no activity no other information to report.

8. NEW BUSINESS

A. Head Check Program

Commissioner Stegemeier also the Chairman of the DJH&WBB announced that at their meeting on April 1, 2020 the board unanimously approved their participation in the Head Check Program, and to pay the fees that are required for

each jockey. They are allocating \$1500.00 for the program and will work with Maryland on it. Robert Colton has been the point person and doing a fantastic job. Once that has been implemented, they will be taking \$1500.00 out of the reserve they have for the jockey's health insurance.

B. DJH&WBB Health Coverage

Commissioner Stegemeier reported on the retired and out of work jockeys. The board did not want to place additional hardship on them in terms of paying their health insurance until racing resumes. The board overwhelmingly approved absorbing the co-pay each member pays for the months of May and June, which is a little under \$8000.00 per month or \$16,000.00 for the 2 months. After that point they will need to decide prior to the insurance payment that is due in July if they will continue with the program or not. The decision will need to be made prior to June 14, 2020. They are hoping it will not need to be done. Commissioner Stegemeier noted that he has received numerous emails of gratitude from some of the participants in helping them through a difficult time. He felt the board did the right thing. It was good PR for the horsemen and Delaware Park. He felt that it has built a strong good will amongst the parties involved. Commissioner Stegemeier also announced that Robert Colton has been appointed to become a Steward this racing season and Pete Lirzarzaburu will be taking his place in working with the Jockeys whatever that date happens to be.

Chairman Patterson echoed the sentiment from the jockeys, he too has received emails that were gratifying to read, they were not just one-word thanks they were filled with heartfelt gratitude.

C. Mid-Atlantic Regulatory Meeting

Chairman Patterson, who is on the committee, addressed some items that he wanted to bring up that came out of the meeting. Two of them where possible rule changes the other 2 were for informational purposes.

I. Voidable Claim Rule (Handout)

Delaware is the only jurisdiction that is not in line with the others. It used to be Delaware and Virginia. However, Virginia has made changes that now align with the other jurisdictions. The proposed rule change:

The horse is vanned off the racetrack at the direction of the commission veterinarian; or

The horse is observed by the Commission Veterinarian to be lame or unsound while still on the racetrack and as such the Commission Veterinarian places that horse on the Vets list.

Chairman Patterson and Dr. Botts have discussed the issue and advised that Delaware was not able to do the rule like the other jurisdictions due to the way they are set up, however adding the new rule would put Delaware in concert with the other jurisdictions.

Dr. Botts confirmed that she is comfortable with the addition to the rule.

Deputy Attorney General Kerber confirmed it would need to be a rule change.

Commissioner Levine questioned the variation of the rule of the other Mid-Atlantic tracks.

Chairman Patterson explained that in New York and Parx if the horse is vanned off and taken back to the receiving barn or the drug test barn; the claimant will have an hour to make up their mind as to whether they want to still proceed with the claim. He is proposing that Delaware implement the modified -rule as there are other jurisdictions who have it the same as Delaware. If it is done the way New York and Parx does it, there would be a need to hire another Veterinarian. The way the test barn is set up, the only way to jog a horse is to jog it on the road outside the test barn. Parx and NY are set up so that they can do that. By giving the claimant an hour to decide, poses logistical problems, which other tracks have encountered. For example, where is the person making the decision? Are they at the track? How to communicate with them? In both Parx and NY horses that are claimed automatically go to the test barn. In Delaware horses only go to the test barn if the claimant requests it.

Chairman Patterson believes this is a more simplified way of doing it and just as effective.

If the claimant still wants the horse when it is vanned off or put on the Vets list, he/she can go directly to the owner and try to make a transaction. The only time the issue would come up is when the claimant is claiming the horse to be a broodmare.

Commissioner Levine questioned the timing of the horse being placed on the Vets list.

Dr. Botts explained that if the rule states that the horse must be on the racetrack, if they see that the horse is lame on the racetrack then the claim can be voided.

Chairman Patterson clarified with Dr. Botts if she noticed a horse walking off the racetrack appeared to be lame would she place it on the Vets list. Dr. Botts said they would have to.

Dr. Gilliam added that the Vet working in the test barn would be notified by the Vet on the racetrack and would immediately place the horse on the Vet list to prevent any delay of when the horse was placed on the list.

At Approximately 10:39 am Commissioner Decker motioned to move with adding the rule and Commissioner Stegemeier seconded, rule was unanimously approved.

ii. **Proposed Shockwave Therapy Rule**

Chairman Patterson explained that Delaware's rule is fine, and if the ruling had been correctly stated by the Stewards, the Commission would not have had a problem penalizing Mr. Pecoraro. The additions to the shockwave therapy rule that is being proposed would put Delaware in compliance with the other jurisdictions.

1. *No horse shall be permitted to leave the racetrack prior to racing, any horse that leaves the racetrack after the time of entry shall be scratched by the stewards*
2. *Horses that leave the racetrack for any purpose within 1 week prior to the time of entry will be tested for biomarkers associated with extracorporeal shockwave therapy (ESWT). Horses found to be treated ESWT shall be scratched by the Stewards and the trainer will be severely punished (Commissioner Levine recommended changing the verbiage to "subject to discipline")*

Commissioner Decker questioned why they shouldn't require and observed work after the 10-day timeframe on a horse that has had shockwave therapy. Chairman Patterson did not think it was needed and deferred to Dr. Botts.

Dr. Gilliam commented that they would have to rely on their pre-race exams to judge whether the horse needs to work or not. She felt that if they were to work them after the 10 days it may be better to prohibit it altogether.

Commissioner Decker opined his concern after a breakdown that happened when the therapy was used and not reported. That if it were prohibited it would cause the therapy to be done off the track, if the horse was required to have an observed work it may have never raced again. He would rather have a horse break down in a work vs in a race.

Dr. Botts and Dr. Gilliam agreed there was no problem in having the horse worked it would need to be added to the rule. They both agreed it was something to consider.

Chairman Patterson felt that there may be a little bit of a problem with it as most trainers don't work their horses that much. Depending on the trainer and the horse it may pose a burden.

Mrs. Gruwell was asked her opinion and she felt that we should be consistent with other jurisdictions. She added that it should be 10 days period, and if they enter a horse that has been off the property within the 10 days of entry they should be scratched. It will take out the guess work.

Chairman Patterson felt it would cause a problem as 40% of the entries are ship-ins.

Mrs. Gruwell reclarified that it should be for horses that are Stabled at Delaware Park. However, it is not how the Mid-Atlantic ruled, and that the rules should follow that of the Mid-Atlantic.

Mr. Mooney had a problem with the rule as he had many people stabled at Delaware Park who rotate their horses on a regular basis from their training center or farm. He would lose entries if he needed to call out to have them filled and the horse has not been worked within the 10 days. When they have horses that haven't run or raced for a long time, they are required to have a workout.

Chairman Patterson pointed out that if the rule was in place it would have prevented Pecoraro from entering the horse.

Chairman Levine questioned whether the rule would discourage horses from stabling at Delaware Park if they were treated differently, and is there a solution to the problem for the horses that ship in.

Chairman Decker added that there is no way to police ship-ins.

Chairman Stegemeier agreed as he was not sure what the workaround would be and added that the horses given the shockwave therapy should be done at the track. He believes that there were about 5 trainers who reported that the therapy was being administrated on the track during the last meet. He was also aware that there were horses going in and out on a regular basis. They were taking off for a couple of days and brought back and not reporting shockwave therapy if it was done.

Chairman Patterson advised that any horse that ships in goes through a thorough pre-race Vet check by Dr. Botts, Dr. Gillam and Dr. Calley all Commission Vets.

Chairman Levine questioned if there was any protocol to determine if shockwave treatment has been done.

Chairman Patterson advised right now there is no way other than doing the bio-marker test which is in its infancy stage. Dr. Gillam has been in contact with Dr. Robinson from PA who has been spearheading the issue since Dr. Somo brought it up about 10 yrs. ago.

Dr. Gilliam suggested contacting Dr. Robinson to see if the test has been validated. It is a simple blood test, and if validated it may be useful to periodically screen horses in the test barn or at some point on race day. She added, depending on when the tests are done the results may not be given right away, however it would still be useful.

At approximately 10:57 am Commissioner Stegemeier made a motion to adopt rule #1 of the shockwave therapy, seconded by Commissioner Killen. Motion was unanimously approved.

iii. FYI's

Chairman Patterson reported news that was for informational purposes only. The 1st item was the ongoing discussion with the jockey guild and the Mid-Atlantic and the safety committee regarding the use of the crop. They are coming close to a national agreement. The agreement is to limit the number of strikes the jockey may use with a crop to 6, limiting to 3 times in succession twice for a total of 6 times. There is also some discussion about the use in underhanded, and the penalties have not been agreed upon. The jockey guild wants days suspensions and the other entities want fines. Chairman Patterson believes the ongoing discussion should be resolved in about 60 days.

There are still ongoing questions about Thyroxine, it should be prohibited and anyone who has the medication should throw it out.

Dr. Botts and Dr. Gillam are satisfied with the ruling.

E. Delaware Park News

Bill Fasy the President of Delaware Park reported there have been no complaints coming from the backside of the property which is a good thing.

Commissioner Decker questioned a possible reopening and when it was going to happen. He also wanted to know if the Governor allowed racing with no Casino or patrons in the stands would that affect decision making.

Mr. Kevin DeLucia Senior Vice President at Delaware Park explained that part of the problem is getting horses here with workers. A large majority would be coming from out of state. They would be required to self-quarantine for 14 days within the state, which they are not allowing them to do on the backside as it would be very difficult for them to control. The 2nd issue is that the purses would be down about 20 to 25% in trying to run an 85-day meet and would be severely impacted. It may discourage some from coming if they could open. He has been in discussion with Mrs. Gruwell and Mr. Peck, and looking at a delay for another 30 days. They won't have the horse population anytime soon unless Governor Carney lifts the ban that will allow out of state workers to come into Delaware without having to self-quarantine for 14 days. There is a lot of unknown right now

Commissioner Decker asked for clarification on the 25% drop in revenue.

Mr. DeLucia responded that with the agreement with the Horseman's Association, a portion of the simulcasting revenue goes toward purses. There is also revenue received from the slots, table games and sports betting. The 25% reduction is a prediction for the year.

Commissioner Decker stated that the Governor's Coalition in the Northeast, one Governor suggested that nothing be done until May 20, 2020. He asked if it became a real date how long it would take Delaware Park to get horses in and up and running.

Mr. DeLucia has been in discussion with Mr. Mooney and Mrs. Gruwell. They discussed that when and if they can open, they are looking at 4 to 6 weeks for horses to get here, get in shape, and get training. They would be looking at the end of June or the very beginning of July, which would be about 30 days out from the original opening date May 27, 2020.

Commissioner Stegemeier wanted to clarify that if they opened at that timeframe, they would have lost many days that would lead to the 25% in loss to the purse money.

Mr. DeLucia said that it was correct. He also added that it would not be an 85 day meet and what it looks like in any new schedule will be dependent on further conversations with Mrs. Gruwell, Mr. Peck and Mr. Mooney.

Commissioner Decker wanted to know why the security guards were not assisting with the temperature taking.

Mr. Fasy responded that the guards are assisting on the front side of the property. There were some concerns from his employees in not knowing where some of the horsemen were coming from. He voiced it in the very beginning and suggested that the horsemen get involved and it turned out that the discussion also included the Racing Commission. He added that the other alternative was to close the backside as he did not want to put his employees at risk.

Mr. DeLucia thanked Mrs. Crane and her team, Mr. Eric Coatrieux and all those involved who are taking the temperatures. It has been a huge help in taking care of the backside.

Chairman Patterson echoed Mr. DeLucia thanks adding that the whole crew has been doing a great job. The Commission really appreciates it.

9. PUBLIC COMMENT

No public comment received

10. EXECUTIVE SESSION

The Commission entered Executive Session at approximately 11:14 am, and concluded their session at approximately 12:00 p.m.

11. ADJOURNMENT

Upon a motion duly made by Chairman Patterson at 11:13 a.m. the public session was adjourned at approximately 11:13 a.m.