

29. COMMENT:

Several commenters expressed opposition to allowing undocumented aliens to apply for teaching licenses as they are criminals who have violated immigration laws and should not be rewarded for doing so.

DEPARTMENT RESPONSE:

The Department believes the proposed amendment is consistent with federal law and applicable case law relating to immigration and professional licensing, including the certification of teachers. Moreover, the individuals covered under the proposed amendment are already lawfully present in the United States under current immigration law. Moreover, all teachers are required to have a criminal history record check prior to certification and as a condition of employment in the schools of this State.

30. COMMENT:

Commenter expressed concern regarding the ability to run a background check on an undocumented alien and the consequences of the same.

DEPARTMENT RESPONSE:

The Department believes the proposed amendment is consistent with federal law and applicable case law relating to immigration and professional licensing, including the certification of teachers because the individuals covered under the proposed amendment are lawfully present in the United States under current immigration law.

Moreover, all teachers are required to have a criminal history record check prior to certification and as a condition of employment in the schools of this State.

31. COMMENT:

Commenter stated that it is not a question of fairness but a question of legality. If you don't like the Federal Immigration Laws work to have them changed at the Federal level, not side step them on the state level. What kind of example does it set for the children to have someone who's breaking a law teaching them? If the state is bent on fairness how about allowing returning veterans and/or their spouses from out of state (all citizens), be licensed in a more expeditious manner?

DEPARTMENT RESPONSE:

The Department believes that the proposed amendment is consistent with federal law and applicable case law relating to immigration and professional licensing, including the certification of teachers. Moreover, the individuals covered under the proposed amendment are already lawfully present in the United States under current immigration law.

The Department is also working with the Legislature on proposed legislation to expedite the licensing of military spouses.

32. COMMENT:

Commenter is a retired assistance principal and expressed that we already certify substandard educators and until there is a national database of teachers who lost their licenses in other states, I feel our children deserve the highest caliber personnel to educate them. If military spouses have licenses in states we have reciprocity with, they should be given provisional certification. Not all states are as stringent as we are and we should not lower our standards. Our children deserve the best.

DEPARTMENT RESPONSE:

The Department believes the proposed amendment is consistent with federal law and applicable case law relating to immigration and professional licensing. The Department is also currently working with the Legislature on proposed legislation to expedite the licensure process for military spouses.

33. COMMENT:

Commenter expressed dismay and disgust for the proposed regulation to let undocumented workers apply for teaching licenses. These people are in the United States ILLEGALLY. They are in this country because the law has been broken. You think it is fair to the legal residents of this state to reward people that have broken the law by letting them teach our children? If they want to come here, they need to follow the legal process for doing so. What kind of a lesson is this to our youth ... that breaking the law is acceptable? Why should my hard-earned tax dollars be spent putting people illegally in the United States on the state payroll? You honestly think this is fair to me?

Why should people who are in the United States ILLEGALLY be afforded the same rights and privileges as those in this country legally? THEY BROKE THE LAW! What part of that do people not understand? We now live in a society so politically correct that breaking the law is acceptable because people fall into certain demographics?

The citizens of New York need to FIRE everyone at the State Education Department and start over by hiring people that respect our immigration laws.

DEPARTMENT RESPONSE:

The Department believes the proposed amendment is consistent with federal law and applicable case law relating to immigration and professional licensing. Moreover, the individuals covered under the proposed amendment are already lawfully present in the United States under current immigration law.

NOTICE OF ADOPTION

Execution by Registered Professional Nurses of Non-Patient Specific Orders to Administer Tuberculosis Tests

I.D. No. EDU-10-16-00017-A

Filing No. 496

Filing Date: 2016-05-17

Effective Date: 2016-06-01

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

**Action taken:** Amendment of section 64.7 of Title 8 NYCRR.

**Statutory authority:** Education Law, sections 207(not subdivided), 6504(not subdivided), 6507(2)(a), 6527(6)(c), 6902(1) and 6909(4)(c); L. 2015, ch. 464

**Subject:** Execution by registered professional nurses of non-patient specific orders to administer tuberculosis tests.

**Purpose:** Authorize administration of other tests to detect/screen for tuberculosis in addition to purified protein derivative (PPD) tests.

**Text or summary was published** in the March 9, 2016 issue of the Register, I.D. No. EDU-10-16-00017-EP.

**Final rule as compared with last published rule:** No changes.

**Text of rule and any required statements and analyses may be obtained from:** Kirti Goswami, State Education Department, Office of Counsel, State Education Building, Room 148, 89 Washington Ave., Albany, NY 12234, (518) 474-6400, email: legal@nysed.gov

**Initial Review of Rule**

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2021, which is the 4th or 5th year after the year in which this rule is being adopted. This review period, justification for proposing same, and invitation for public comment thereon, were contained in a RFA, RAFA or JIS.

An assessment of public comment on the 4 or 5-year initial review period is not attached because no comments were received on the issue.

**Assessment of Public Comment**

The agency received no public comment.

New York State Gaming Commission

PROPOSED RULE MAKING  
NO HEARING(S) SCHEDULED

Simplifying How a Trainer May Alter the Use of Hopples

I.D. No. SGC-22-16-00004-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** Amendment of sections 4113.5 and 4117.3 of Title 9 NYCRR.

**Statutory authority:** Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1), (19) and 301(1)

**Subject:** Simplifying how a trainer may alter the use of hobbles.

**Purpose:** To preserve the integrity of pari-mutuel racing while generating reasonable revenue for the support of government.

**Text of proposed rule:** Section 4113.5 of 9 NYCRR would be amended as follows:

§ 4113.5. Unqualified horses.

(a) A horse shall be deemed unqualified and must qualify once before being allowed to start in any overnight pari-mutuel event for the following reasons:

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(2) The horse is changing gait[, or putting on or taking off hobbles unless available performance lines show that the horse has raced satisfactorily in such manner previously and in the opinion of the judges can be expected to give a satisfactory performance].

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Section 4117.3 of 9 NYCRR would be amended as follows:

§ 4117.3. Use or removal of hobbles.

(a) [If a horse has warmed up in hobbles or raced one heat of a race in hobbles, such hobbles shall not be removed from a horse or altered without permission of the presiding judge.] *The trainer has discretion on the use of hobbles, subject to the judges cancelling any change in the use of hobbles on a horse in the exercise of the judges' discretion to protect the integrity of racing and the wagering public.*

(b) [A horse habitually wearing hobbles shall not be permitted to start in a race without them except by permission of the presiding judge. A horse habitually racing free-legged shall not be permitted to wear hobbles in a race except with such permission. A failure to obtain permission to add, remove or make alterations in hobbles may be deemed to be a fraud in racing.] *The entry of the horse shall state whether such horse will use hobbles or not. Failure to include a change on the entry form disallows any addition or subtraction of hobbles for the race. Every change in a horse's use of hobbles must be included in the program.*

(c) *Any person found culpable of removing or altering a horse's hobbles during a race or between races for the purpose of fraud shall be suspended or expelled.*

**Text of proposed rule and any required statements and analyses may be obtained from:** Kristen M. Buckley, New York State Gaming Commission, 1 Broadway Center, PO Box 7500, Schenectady, New York 12301, (518) 388-3407, email: gamingrules@gaming.ny.gov

**Data, views or arguments may be submitted to:** Same as above.

**Public comment will be received until:** 45 days after publication of this notice.

#### Regulatory Impact Statement

1. Statutory authority: The New York State Gaming Commission ("Commission") is authorized to promulgate these rules pursuant to Racing Pari-Mutuel Wagering and Breeding Law ("Racing Law") Sections 103(2), 104(1, 19), and 301(1). Under Section 103(2), the Commission is responsible for supervising, regulating and administering all horse racing and pari-mutuel wagering activities in the State. Subdivision (1) of Section 104 confers upon the Commission general jurisdiction over all such gaming activities within the State and over the corporations, associations and persons engaged in such activities. Subdivision (19) of Section 104 authorizes the Commission to promulgate any rules and regulations that it deems necessary to carry out its responsibilities. Under Section 301(1), the Commission is authorized to supervise generally all harness race meetings and to adopt rules to prevent the circumvention or evasion of its regulatory purposes and provisions.

2. Legislative objectives: To preserve the integrity of pari-mutuel racing while generating reasonable revenue for the support of government.

3. Needs and benefits: This rule making would allow the trainer discretion when entering a harness horse to race to change whether the horse will use hobbles, subject to oversight by the Commission judges at the track.

Hobbles are straps that help to keep a harness horse on a proper gait, either pacing or trotting, by connecting the front and rear legs on the same side of the horse. The consensus in the industry is that harness horses are able to race well regardless of a change in such equipment and that the wagering public can properly handicap such changes.

Under the current rules, a trainer must get the permission of the presiding judge for any change in the use of hobbles (9 NYCRR § 4117.3) and a horse must race satisfactorily in a qualifying race before hobbles may be worn or removed for the first time (9 NYCRR § 4113.5).

The proposal would amend these rules to allow the trainer to change whether a horse will use hobbles or not, and to change a horse's use of hobbles without having to qualify the horse. The proposal instead would require that the race program report any changes in a horse's use of hobbles and authorize the judges to disallow any change in the use of hobbles when necessary to protect the integrity of racing and the wagering public. This will allow a trainer more flexibility to change hobbles as appropriate for local track configurations and conditions without always incurring the time and expense of getting permission from the presiding judge and requalifying the horse to race.

4. Costs:

(a) Costs to regulated parties for the implementation of and continuing compliance with the rule: These amendments will not add any new mandated costs to the existing rules.

(b) Costs to the agency, the state and local governments for the implementation and continuation of the rule: None. The amendments will not add any new costs. There will be no costs to local government because the Commission is the only governmental entity authorized to regulate pari-mutuel harness racing.

(c) The information, including the source(s) of such information and the methodology upon which the cost analysis is based: N/A.

5. Local government mandates: None. The Commission is the only governmental entity authorized to regulate pari-mutuel thoroughbred racing activities.

6. Paperwork: There will be no additional paperwork.

7. Duplication: No relevant rules or other legal requirements of the state and/or federal government exist that duplicate, overlap or conflict with this rule.

8. Alternatives: The Commission considered not changing this rule, but decided to propose changes that are less burdensome and are consistent with the capabilities of harness horses and the wagering public.

9. Federal standards: There are no minimum standards of the Federal government for this or a similar subject area.

10. Compliance schedule: The Commission believes that regulated persons will be able to achieve compliance with the rule upon adoption of this rule.

#### Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

A regulatory flexibility analysis for small business and local governments, a rural area flexibility analysis, and a job impact statement are not required for this rulemaking proposal because it will not adversely affect small businesses, local governments, rural areas, or jobs.

The proposal seeks to revise the Commission's horse racing rules in regard to the use or removal of hobbles for standardbred horses. The proposal would no longer require a harness horse trainer to obtain permission and have the horse participate in a qualifying race before making this minor equipment change. The trainer would be able to indicate the change on the entry form. The change would appear in the race program, and the judges could prevent such a change in the use of hobbles when necessary to protect race integrity and wagering public.

This rule will not impose an adverse economic impact or reporting, record keeping, or other compliance requirements on small businesses in rural or urban areas or on employment opportunities. No local government activities are involved.

## PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

### Decoupling of Harness Horses in Major Stakes Races

I.D. No. SGC-22-16-00005-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed Action:** Amendment of section 4111.15 of Title 9 NYCRR.

**Statutory authority:** Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1), (19) and 301(1)

**Subject:** Decoupling of harness horses in major stakes races.

**Purpose:** To preserve the integrity of pari-mutuel racing while generating reasonable revenue for the support of government.

**Text of proposed rule:** Section 4111.15 of 9 NYCRR would be amended as follows:

§ 4111.15. Coupling of entries.

(a) In all races starters shall be coupled when owned in whole or in part or under the control of, or trained by the same person, or trained in the same stable or by the same management, or where, in the discretion of the judges, it is necessary to protect the public interest. A horse to be driven by a full-time employee of another driver in the race shall be considered as racing from the same stable. If a race is divided into two or more divisions, such starters shall be seeded into separate divisions where possible, first on the basis of ownership[, next on the basis of training,] and [finally] by stable, [but the] then on the basis of training. The divisions in which they compete and their post positions shall be drawn by lot. Whenever such horses are coupled in the same race, the presiding judge shall approve the second and additional drivers.

(1) *Except for stakes races with a purse of \$25,000 or more, horses trained by the same trainer but owned by different, separate owners may be uncoupled. The presiding judge has the discretion to couple such horses, however, to protect the interests of the wagering public. Trainers with an ownership interest in more than one horse must have their horses coupled.*

(2) *Except for stakes races with a purse of \$100,000 or more, horses with common ownership may be uncoupled. The presiding judge has the discretion to couple such horses, however, to protect the interests of the wagering public.*

(b) Except by express permission of the commission, coupled entries are prohibited in overnight events.

(c) After post positions have been drawn, horses may be coupled as an entry (or uncoupled, if erroneously coupled) but such race, as divided[,] and as post positions have been drawn, shall be final.

**Text of proposed rule and any required statements and analyses may be obtained from:** Kristen M. Buckley, New York State Gaming Commission, 1 Broadway Center, PO Box 7500, Schenectady, New York 12301, (518) 388-3407, email: gamingrules@gaming.ny.gov