



**MEETING AGENDA
JUNE 26, 2023**

1. CALL TO ORDER AND ESTABLISHMENT OF QUORUM
2. CONSIDERATION OF MINUTES FOR MEETING OF MAY 22, 2023
3. REPORT OF THE EXECUTIVE DIRECTOR
4. RULEMAKING
 - A. PROPOSED: ATTENDING VETERINARIAN EXAMINATION
5. NEW & OLD BUSINESS
6. ADJOURNMENT

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**New York State
Gaming Commission**

Minutes

Meeting of May 22, 2023

A meeting of the Commission was conducted in New York, New York and Schenectady, New York. Two-way audio and video communications were maintained between locations for the duration of the meeting.

1. Call to Order and Establishment of Quorum

Executive Director Robert Williams called the meeting to order at 1:13 p.m. Establishment of a quorum was noted by Acting Secretary Kristen Buckley. In physical attendance in Manhattan were Chairman Brian O'Dwyer, and Members John Crotty, Marissa Shorenstein, and Jerry Skurnik. In physical attendance in Schenectady was Member Peter Moschetti.

2. Consideration of Minutes for Meeting of March 27, 2023

The Commission considered previously circulated draft minutes of the meeting conducted on March 27, 2023. The minutes were accepted as circulated.

3. Report of the Executive Director

The Executive Director presented an update on gaming components of the recently completed State Budget, the restart of the Horseracing Integrity and Safety Authority Anti-Doping & Medication Program, a state Worker Adjustment and Retraining Notification (WARN) Act notice filed by Vernon Downs Casino Hotel, the announced PointsBet sale to Fanatics Betting and Gaming, background information regarding the Pletcher meloxicam drug positive and the status of the Request For Applications Question and Answers Round 1.

4. Rulemaking

A. ADOPTION: SGC-08-23-00004-P, Amendments to Rules Governing the Content of Gaming Facility License Applications

The Commission considered adoption of regulations to govern the content of casino license applications, to reflect the statutory requirements of Title 2-A of Article 13 of the Racing, Pari-Mutuel Wagering and Breeding Law concerning the application process for additional casino licenses.

ON A MOTION BY: Commissioner Shorenstein
APPROVED: 5-0

B. REVISED PROPOSED: Sports Wagering Advertising

The Commission considered re-proposal of the rules to regulate advertising, marketing and promotions concerning sports wagering, providing an amendment to the prohibition against compensating marketing and advertising third parties and requiring disclosure of business practices on the websites of such affiliate marketing sites.

ON A MOTION BY: Commissioner Skurnik
APPROVED: 5-0

5. Adjudications

A. In the Matter of Naji M. Mahmoud d/b/a NA Market

The Commission, having considered this matter at a meeting conducted pursuant to the judicial or quasi-judicial proceedings exemption of N.Y. Public Officers Law § 108.1, announced that it had determined upon a 4-1 vote, Commissioner Moschetti voting in the negative, to adopt the Hearing Officer’s findings of fact and conclusions of law, suspending Mr. Mahmoud’s lottery license for a period of one year beginning December 1, 2022.

6. New & Old Business

No New or Old Business was presented.

7. Adjournment

Before concluding, Chairman O’Dwyer noted that he was pleased that the adopted State Budget included language to require the address of worker backstretch housing at Belmont Park and Saratoga Race Course. He also noted that consideration of the ownership transfer of PointsBet to Fanatics would be undertaken at the Commission level. Finally, Chairman O’Dwyer observed the recent resignation of Commissioner Christopher Riaño and noted the retirement of longtime Commission employee Brian Barry, thanking both for their exemplar service to the People of New York.

The meeting was adjourned at 1:47 p.m.

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Gaming Commission

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www.gaming.ny.gov

To: Commissioners

From: Edmund C. Burns

Date: June 20, 2023

Re: Proposed Rulemaking for Attending Veterinarian Examinations in Thoroughbred Racing (9 NYCRR § 4007.5)

For Commission consideration is an amendment to Rule 4007.5, which concerns qualifications to start. The proposed regulation would require a trainer's attending veterinarian to examine a horse within 72 hours before a race, as well as within 72 hours before a workout, to determine the horse's fitness to participate in the race or workout. The horse would be prohibited from entry into a race or from a workout unless such evaluation results in a determination that the horse is fit to race or work out, as the case may be. The proposal is intended to minimize the risks of injury to horses that are unfit to perform.

The proposed rule would require such attending-veterinarian examinations to include, without limitation, a close inspection of the eyes, examination of the legs, and observation of the horse at rest and while in motion. Following a determination that the horse is either fit to race or to work out, the attending veterinarian and trainer would be obligated to inform the racing association's veterinarian of any changes in the horse's fitness before race day or the workout, as the case may be. The evaluation of the horse's fitness to race or work out, as the case may be, would be required to be reported in a manner the Commission directs. The term "workout" would be defined, for clarity.

Significant injuries can occur if a horse that is already suffering from an injury or illness continues to race or participate in workouts. Exacerbation of such injuries or illnesses could disrupt further racing or training and lead to elevated risk to the horse of further injury, catastrophic breakdown or death. An injured or sick horse is not capable of exerting its best effort during racing or training and the horse's body cannot fully absorb the stresses that racing or working out can impose.

New York rules currently require a horse being examined by the racing association's veterinarian on race day for the express purpose of evaluating the horse's fitness to race. See 9 NYCRR § 4007.1. Adding the requirement for an examination by the attending veterinarian provides additional safeguards by ensuring an evaluation by a veterinarian with knowledge of the particular horse, while maintaining the examination by the racing association's veterinarian as an additional level of review. Furthermore, adding the requirement for examinations prior to workouts will implement equivalent protections for training.

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While we have no reason to believe that an attending veterinarian would permit a horse under such veterinarian's care to race or participate in a workout if the horse is unfit, staff believes it appropriate to require attending veterinarians to make such representations of fitness explicitly, as a further safeguard to promote the safety and health of New York's racehorses.

The text of the proposed rule is attached.

[REDACTED]

attachment

cc: Robert Williams, Executive Director
Ronald Ochrym, Director, Division of Horse Racing and Pari-Mutuel Wagering

Text to be deleted appears in [brackets]
Text to be added is underlined

PART 4007

Horses

Section	
4007.1	Examination; report thereof
4007.2	Exclusion; withdrawal
4007.3	Records to be kept
4007.4	Shoeing
4007.5	Qualifications to start <u>or work out</u>
4007.6	Veterinarians to be licensed
4007.7	Geldings
4007.8	Death of a horse

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§ 4007.5. Qualifications to start or work out.

(a) Licensee requirement. No horse shall be qualified to start in any race unless entered by a licensed owner and in the charge of a licensed trainer.

(b) Examination preceding entry. A horse shall not be entered in any race unless:

(1) the horse has been examined by the trainer's attending veterinarian during the 72 hours immediately preceding entry to race for the express purpose of evaluating the horse's fitness to race; and

(2) such attending veterinarian has determined that the horse is fit to race.

Such examination shall include, without limitation, close inspection of the eyes, examination of the legs, and observation of the horse at rest and while in motion. The attending veterinarian and trainer shall inform the association veterinarian of any changes in the horse's fitness after entry and before race day. The attending veterinarian's evaluation shall be reported to the association veterinarian and to the commission, in a manner the commission directs.

(c) Examination preceding workout. A horse shall not be permitted to work out at a track unless:

(1) the horse has been examined by the trainer's attending veterinarian during the 72 hours immediately preceding the workout for the express purpose of evaluating the horse's fitness to work out; and

(2) such attending veterinarian has determined that the horse is fit to work out.

Such examination shall include, without limitation, close inspection of the eyes, examination of the legs, and observation of the horse at rest and while in motion. The attending veterinarian and trainer shall inform the association veterinarian of any changes in the horse's fitness after examination and before workout. The attending veterinarian's

evaluation shall be reported to the association veterinarian and to the commission, in a manner the commission directs.

(d) *Definition.* For the purpose of this section, *workout* means an exercise session near full speed or close to full speed.