8. Alternatives: The Department circulated a draft of this proposal to the Life Insurance Council of New York ("LICONY") and National Association of Insurance and Financial Advisors – New York State ("NAIFA"), which represent the affected insurers and insurance agents. The Department received no written comments from either of the associations. However, LICONY, NAIFA, and life insurers have actively advocated that the Department raise the limits and thus fully support this amendment because they believe that it would provide much needed incentives for new agents.

The Department believes that there are no other viable alternatives to accomplish the objective of this amendment, to increase the life insurance agent training allowance limits to adjust for inflation. Furthermore, Insurance Law section 4228(e)(3)(G) sets forth the method to adjust the limits for inflation, which is to amend the limits by regulation.

9. Federal standards: There are no federal standards in this subject area.

10. Compliance schedule: The amendment, if adopted, will be effective immediately. Since this proposal lessens the restrictions on paying agent training allowance subsidies, the promulgation of this amendment will not adversely impact any training allowance program now in effect.

Regulatory Flexibility Analysis

1. Small businesses: The Department of Financial Services ("Department") finds that this rule will not impose any adverse economic impact on small businesses and will not impose any reporting, recordkeeping or other compliance requirements on small businesses. The basis for this finding is that this rule is directed at all life insurers authorized to do business in New York State, none of which fall within the definition of "small business" as defined in section 102(8) of the State Administrative Procedure Act. The Department has reviewed filed reports on examination and annual statements of authorized life insurers and found that none of them fall within the definition of a "small business", because there are none that are both independently owned and have less than one hundred employees. Furthermore no life insurance agent affected by this rule who meets the definition of a "small business" will undergo any additional reporting, recordkeeping or other compliance requirements. Any such reporting, recordkeeping or other compliance requirements are borne by the insurer who makes the training allowance payments. The only effect on the agent is to receive an increased level of training allowance payments.

2. Local governments: The amendment does not impose any impacts, including any adverse impacts, or any reporting, recordkeeping, or other compliance requirements on any local governments.

Rural Area Flexibility Analysis

1. Types and estimated number of rural areas: Insurance companies and insurance agents covered by the rule do business in every county in this state, including rural areas as defined under State Administrative Procedure Act section 102(10).

2. Reporting, recordkeeping and other compliance requirements; and professional services: This amendment does not change the reporting, recordkeeping and other compliance requirements that have been in effect since the adoption of 11 NYCRR 12 (Insurance Regulation 50) in September 2007.

3. Costs: The proposed amendment increases the amount of training allowance subsidies an insurer authorized to do business in New York State may pay. Costs to a life insurer may increase moderately, if the insurer opts to increase the training allowance subsidy. However, an insurer that now pays subsidies under the lower limits contained in Insurance Regulation 50 or Insurance Law sections 4228(e)(3)(C) through (E) does not have to increase its training allowance and does not have to make any new filing with the Department of Financial Services ("Department"). Thus, an insurer that does not wish to increase training allowance subsidies will not experience any cost increase.

The Department does not anticipate any increased cost impact on it by this amendment, and the amendment may reduce Department costs to the extent that it reduces the number of filings made under Insurance Law section 4228(e)(3)(H), requiring an insurer to seek approval from the Superintendent in order to obtain a deviation from the current limits.

While there is a possibility that costs to insureds may increase, it is anticipated that any increase will be offset by lower per policy administrative costs. The higher permitted training allowances should allow insurers to hire more able agents and sell more policies, which should result in the decline of per policy administrative costs. The expectation is that this decline in administrative costs will outweigh the increase in costs due to the higher training allowance payments.

4. Minimizing adverse impact: This amendment uniformly affects insurers and insurance agents that are located in both rural and non-rural areas of New York State. The rulemaking should not impose any adverse impact on rural areas.

5. Rural area participation: Prior to proposing this amendment, the Department had conversations with the National Association of Insurance and Financial Advisors – New York State ("NAIFA") and the Life Insurance Council of New York ("LICONY"), which represent affected insurers and insurance agents, some of which are located in rural areas. The Department circulated a draft of this proposal to both associations and received no written comments from them. However, LICONY, NAIFA, and life insurers have actively advocated that the Department raise the limits and thus fully support this amendment because they believe that it would provide much needed incentives to attract new agents. Also, public and private interests in rural areas will have an additional opportunity to participate in the rulemaking process once the proposed rule is published in the State Register and posted on the Department's website.

Job Impact Statement

The amendment to Insurance Regulation 50 should either have a positive or no impact on jobs and employment opportunities, including self-employment opportunities, in New York State. This amendment allows life insurers to increase limits on training allowance subsidies. As a result, employment as a life insurance agent may become more desirable, which may lead to more people taking the agent licensing examination, a greater number of license applications being filed, the hiring of new agents, and greater enrollment in required continuing education classes, all of which may require the hiring of additional employees or create new employment opportunities to provide more of those services.

New York State Gaming Commission

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Permit Jockeys to Wear Trade Logos and Own Name on Jockey Clothing

I.D. No. SGC-45-16-00002-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 4041.6 of Title 9 NYCRR.

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

Subject: Permit jockeys to wear trade logos and own name on jockey clothing.

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

Text of proposed rule: Section 4041.6 of 9 NYCRR would be amended as follows:

§ 4041.6. Wearing of advertising or promotional material.

(a) A jockey may not wear any clothing other than the usual helmet, silks, pants, boots and gloves nor display on such clothing any material other than:

(1) a logo of the Jockeys' Guild that does not exceed 10 square inches;

(2) a logo of the Permanently Disabled Jockeys Fund that does not exceed 10 square inches; and

(3) authorized advertising or promotional material [without] *worn with* permission of the stewards.

(b) Advertising or promotional material may be worn by a jockey provided such jockey has filed with the stewards and the race track in a form furnished by the commission at least 24 hours before the applicable race, a description of the advertising or promotional material to be worn with the name of the brands and sponsors and referring to a written authorization by the managing owner of the horse to be ridden which authorization is also filed.

(c) Notwithstanding the foregoing when a corporation, company or any other entity sponsors a race or raceday at the track, the track may prohibit such advertising or promotional material from being worn that represents a competitor of such sponsoring corporation, company or other entity. In this regard the track shall notify the stewards of such prohibition at least two hours before the first race of the day, and the jockey upon arrival in the jockeys' enclosure.

(d) A jockey may display the jockey's name on the pants and the rear of the helmet, only if the name:

(1) is the jockey's legal name;

(2) appears on any combination of the outside of the right thigh, the

outside of the left thigh, the rear of the pants between the waistline and the base of the spine or the rear of the helmet;

(3) does not exceed 32 square inches on the outside of each thigh, 10 square inches on the rear of the pants and six square inches on the rear of the helmet; and

(4) appears in black lettering.

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) and 104(1, 19). 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.

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

3. Needs and benefits: This rule making is needed to permit the limited use of certain advertising materials on the clothing of jockeys.

The current rules provide that jockeys may not wear any advertising or promotional material without the permission of the stewards. As a result, jockeys are required to obtain permission to wear the standard logos of their trade and to display their own names in a limited fashion on their clothing. It would be more sensible to permit such to be displayed without requiring stewards' permission.

The proposal would amend 9 NYCRR § 4041.6(a) to allow a jockey to wear the logos of the Jockeys' Guild and the Permanently Disabled Jockeys Fund, provided that each logo does not exceed 10 square inches in size.

The proposal would add a new subdivision (d) to 9 NYCRR § 4041.6 to allow a jockey to display his or her legal name on the pants and helmet of the jockey. The name must be in black lettering and be limited in location and size. The permissible locations would be the outer thighs, the rear waist area, and the back of helmet. The size limitations would be 32, 10 and six square inches, respectively, for each display of the jockey's name.

The proposal reflects the input and support of Jockeys' Guild, Inc., a trade organization that represents jockeys who compete in New York horse racing.

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. The jockey will not be required to wear the additional materials that are permitted on the jockey's clothing.

(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 requiring the Stewards to grant their permission for these displays. This was rejected as inefficient and unnecessary.

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 proposed amendment permits jockeys to wear their trade organization logos (the Jockeys' Guild and the Permanently Disabled Jockeys Fund) and their own legal names on their clothing without having to gain the permission of the race stewards. The logos and names must be limited in size or location. The amendments will make the wearing of such neutral displays more efficient than under the current rule that requires a jockey obtain advance permission from the stewards.

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

Anti-Stacking of NSAIDs and Diclofenac Made a 48 Hour NSAID

I.D. No. SGC-45-16-00004-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 4043.2(e) and 4120.2(e) of Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1), (19), 301(1), (2) and 902(1)

Subject: Anti-stacking of NSAIDs and diclofenac made a 48 hour NSAID.

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

Text of proposed rule: Subdivision (e) of section 4043.2 of 9 NYCRR would be amended as follows:

§ 4043.2. Restricted use of drugs, medication and other substances.

* * *

(e) The following substances are permitted to be administered by any means until 48 hours before the scheduled post time of the race in which the horse is to compete:

* * *

(14) *no more than one of* the following nonsteroidal anti-inflammatory drugs ([NSAID's] *NSAIDs*): [Phenylbutazone (e.g., Butazolidin)] *diclofenac,* [Flunixin] *flunixin* (e.g., Banamine), *ketoprofen (e.g., Orudis),* meclofenamic acid (*e.g.,* Arquel), naproxen (e.g., Naprosyn, Equiproxen), [Ketoprofen (e.g., Orudis)] *and phenylbutazone (e.g., Butazolidin)*;

* * *

Subdivision (e) of section 4120.2 of 9 NYCRR would be amended as follows:

§ 4120.2. Restricted use of drugs, medication and other substances.

* * *

(e) The following substances are permitted to be administered by any means until 48 hours before the scheduled post time of the race in which the horse is to compete:

* * *

(9) hormones and*, except for any formulation of methylprednisolone,* non-anabolic steroids, e.g., progesterone, estrogens, chorionic gonadatropin, glucocorticoids, except in joint injections as restricted in subdivision (i) of this section;

* * *

(14) *no more than one of the* following nonsteroidal anti-inflammatory drugs ([NSAID's] *NSAIDs*): [Phenylbutazone (e.g., Butazolidin)] *diclofenac*, [Flunixin] *flunixin* (e.g., Banamine), *ketoprofen (e.g., Orudis),* meclofenamic acid (*e.g.,* Arquel), naproxen (e.g., Naprosyn, Equiproxen), [Ketoprofen (e.g., Orudis)] *and phenylbutazone (e.g., Butazolidin)*;

* * *

(18) sulfonamide drugs (e.g., Sulfa; [and]

(19) . . . [.]*; and*

* * *

[(21) notwithstanding paragraph (9) of this subdivision, the corticosteroid methylprednisolone (e.g., Depo Medrol) is not a substance that is permitted to be administered by any means until 48 hours before the scheduled post time of the race in which the horse is to compete.]

* * *

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