

New York State Gaming Commission 07-22-19

Robert Williams: New York State Racing, Pari-Mutuel Wagering and Breeding Law Section 102 provides that the New York State Gaming Commission shall consist of seven members appointed by the governor by and with the advice and consent of the senate.

Four members confirmed by the New York State Senate are necessary to afford the Commission an ability to establish a quorum and undertake action. This present meeting of the Gaming Commission is now called to order. Ms. Secretary, will you please call the roll?

Secretary: John Crotty.

John Crotty: Here.

Secretary: Peter Moschetti?

Peter Moschetti: Here.

Secretary: John Poklemba?

John Poklemba: Here.

Secretary: Barry Sample? Jerry Skurnik?

Jerry Skurnik: Here.

Secretary: Todd Snyder?

Todd Snyder: Here.

Robert Williams: Ms. Secretary, please have the record reflect that a quorum of qualified members is present, thus enabling the transaction and business. Chairman Sample was conflicted today.

He has requested that Commissioner Poklemba preside over today's meeting. Unless there is an objection, Commissioner Poklemba.

John Poklemba: Thank you, Rob. Minutes of the Commission meeting conducted on June 10, 2019 have been provided to the members in advance. At this time, I would like to ask the members if there are any edits, corrections, or amendments?

Hearing none, Ms. Secretary, please let the record reflect that the minutes were accepted.

Rulemaking, New York State Racing, Pari-Mutuel Wagering and Breeding Law Section 104.19 authorizes the Commission to promulgate rules and regulations that it deems necessary to carry out its responsibilities. In that regard, the Commission will from time to time promulgate rules and rule

amendments pursuant to the State Administrative Procedure Act.

Today, we have several items for consideration. Rob, would you please outline the first item?

Robert Williams: Certainly, and for Commission consideration is the adoption of a proposed Thoroughbred wager to be known as the pick-six jackpot wager, which is offered in several other jurisdictions. The wager, also known as a jackpot or rainbow wager, appeals to betters by giving a larger prize when there is only one winning wager from a pool.

If there are more than one winning ticket, then the major portion of the day's pool is paid out to those who selected six of six winners. The minor pool is added to a carryover.

The carryover gets paid out when there is a unique winning ticket; or when there is an intermediate final distribution, as approved by the Commission, which would typically occur at the end of a race meeting. No public comments were received. Staff recommends adoption of this rule proposal.

John Poklemba: Commissioners, are there any questions on the adoption of the proposed pick-six jackpot wager for Thoroughbred racing rule? Are there any questions? If there are no questions, could I have a motion to adopt?

John Crotty: So moved.

John Poklemba: A motion by Commissioner Crotty?

Todd Snyder: I second that.

John Poklemba: A second by Commissioner Snyder. Any discussion? All in favor?

Unidentified Male: Aye.

Unidentified Male: Aye.

Unidentified Male: Aye.

John Poklemba: Aye – a motion is passed.

Robert Williams: For Commission consideration is a proposal of a revised Thoroughbred Pari-Mutuel Wagering rules regarding show wagers. Current rules require show wagers to be offered in all races with five or more betting interests except in sweepstakes races.

The proposal would make show wagering optional in all races of five or less betting interests.

This change would help the tracks minimize the risk of loss on a race with an anticipated heavy favorite as racetracks are required to pay a minimum of two dollars and ten cents on a two dollar wager, regardless of how many betters in the pool select the show horse.

This occurrence is colloquially known as a minus pool. A similar proposal was previously, unanimously adopted by the Gaming Commission.

Upon reflection, the staffs determined that the initial proposal was too broad, and thus drafted a more narrowly crafted proposal that would accomplish the intended goal without unintended consequences. Staff recommends that the Commission propose this rulemaking.

John Poklemba: Commissioners, are any questions or comments regarding this proposed rule?

Unidentified Male: Mr. Chairman, I raised the series of concerns about the five entry show bet wagering, the canceling show bet wagering with five entries. I have asked staff to deliver some more information.

They said they'd do that. But, since this is just a proposal, I was going to vote, "Yes," at this time to not slip the process; but pending some of those answers, definitely thinking of what would make the most sense.

John Poklemba: Thank you, Commissioner.

Unidentified Male: Mr. Chairman, can I add something?

John Poklemba: Sure.

Unidentified Male: What is the timing? We're putting out a proposed rule? What will happen? When will we be able to see some data to inform a further discussion?

Robert Williams: I can certainly get you the data at the time of our next meeting, which is probably at the end of August. Under a typical rulemaking process, if everything moved with Godspeed, we would be into a state register within about two weeks. Then, there would be a 60 day public comment period.

That wouldn't come off that until another Commission meeting, which would be ____ [00:05:23]. October most likely, when we would be considering this. We have at least two meetings in the interim that we can discuss this.

Unidentified Male: Okay. Thank you. Thanks.

John Poklemba: Any other questions or comments? May I have a motion to propose this rule? and so moved?

Jerry Skurnik: So moved.

John Poklemba: Motion by Commissioners Skurnik, second?

Todd Snyder: I second.

John Poklemba: The second by Commissioner Snyder. All those in favor?

Unidentified Male: Aye.

Unidentified Male: Aye.

Unidentified Male: Aye.

John Poklemba: The motion is carried. Bob?

Bob: For Commission's consideration is a proposal of amendments to various rules that would explicitly authorize the supervised use of veterinary technicians at New York racetracks. The purpose of these proposals is to make it more feasible for horse persons and racetracks to provide appropriate veterinary care by permitting the use of supervised veterinary technicians.

These proposals would create a specific license category for veterinary technicians, and would apply to such personnel; the same license fee and restrictions for record keeping, horse ownership, the possession and disposal of needles and drugs as currently applied to veterinarians.

Additionally, Commission approval for employment by a racetrack would also apply as it presently does to veterinarians. The proposal would require that such personnel act under the direction and general supervision of a licensed veterinarian.

Veterinarian technicians are a regulated profession subject to professional State Education Department licensing requirements, including continuing education. They are competent to perform certain functions at the direction and under the general supervision of a licensed veterinarian.

A similar proposal was previously, unanimously adopted by the Commission. Upon reflection, the initial proposal was too narrow. Staff has created a proposal that would accomplish the intended goal without unintended consequences.

This revision adds language that allows a veterinary technician employed by the Commission or a racetrack who is taking biologic samples for regulatory testing to be under the general supervision of a veterinarian while eliminating the requirements that the veterinarian be on the same premise.

The proposal also makes stylistic changes to the applicable Commission rules. Staff recommends proposal of this rule amendment.

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John Poklemba: Commissioners, are there any questions or comments regarding this proposal? Hearing none, may I have a motion to propose the rule?

Peter Moschetti: So moved.

John Poklemba: Motion by Commissioner Moschetti. Second?

Skurnik: Second.

John Poklemba: – By Commissioner Skurnik. Any discussion on the motion? All those in favor, Aye?

Unidentified Male: Aye.

Unidentified Male: Aye.

John Poklemba: The motion carries.

Unidentified Male: Thanks.

John Poklemba: Move to adjudications, Rob?

Robert Williams: Certainly, and the next item of the scheduled businesses, as he mentioned, was adjudications. The first item is in the matter of Parish American Legion.

In February 2019, Commission staff issued a notice of hearing to determine whether the license of Parish American Legion Post 601 in Parish should be suspended or revoked?

Whether Parish Post should be fined for failing to maintain and file financial statements of Bell Jar operations for three calendar quarters in 2018 in violation of Commission Rule 4624.1A; and for failing to pay required licensing fees to the Commission for 11 calendar quarters dating back to 2012. in violation of the general municipal laws Section 195Q; 1 and Commission Rules 4608.12, 4624.3.

A hearing was conducted on March 20, 2019. The hearing officer submitted a report to the Commission secretary dated June 24th, recommending that the Commission fine Parish Post for its noncompliance and suspend the Parish Post license to conduct Bell Jar and Games of Chance until all fees and fines have been paid.

The hearing office – I'm sorry. The matter is now ready for final agency determination. The Commission considered this matter at a meeting conducted pursuant to the judicial or quasi-judicial proceedings exemption of New York Public Officers Law Section 108.1.

John Poklemba: Thank you, Rob. The Commission duly deliberated, and considered this

matter, and determined upon a vote of six to zero to modify the hearing officer's report and recommendations to accept the suspension and add a fine of five hundred dollars. The next matter?

Robert Williams: In the matter with Genting, New York, on November 18, 2019, the Division of Gaming issued a ten thousand dollar fine to Genting, New York LLC, which operates the Video Lottery Gaming Facility at Aqueduct Racetrack in Queens for permitting a minor to be present on the gaming floor in violation of Commission Rule 5117.183.

Genting requested a hearing, which was conducted on May 30th. The hearing officer submitted a report to the Commission secretary data June 13th, recommending the violation and fine be reversed on the grounds that Genting had established an affirmative defense.

This matter is now ready for final agency determination. The Commission considered this matter. A meeting conducted pursuant to the judicial or quasi-judicial proceedings exemption of New York Public Officers Law Section 108.1.

John Poklemba: Thank you, Rob. The Commission duly deliberated and considered this matter, and determined upon a vote of six to zero to sustain the hearing officer's report and recommendations. The next matter?

Robert Williams: In February 2019, the Commission staff issued a notice of hearings to determine whether the license of the Polish Community Center of Albany, New York, Inc. should be suspended or revoked?

Whether the Center should be fine for conducting Bell Jar games in 2016 and 2018 while unlicensed, and failing to file timely financial statements of Bell Jar operations for six quarters in 2012 and 2015; all in violation of Commission Rule 4624.1A.

A hearing was conducted on May 17th. The hearing officer submitted a report to the Commission Secretary dated June 27th, recommending that the Commission impose a fine of two thousand dollars on the Center and suspend the Center's license to conduct Games of Chance for a period of one year. But, defer the imposition of sanctions for a period of three years contingent upon the hearing – or the Center committing no proven violations within such probationary period.

The hearing officer also recommended the sanctions be dropped if no violations occur within the three year period. The sanctions be effective immediately, if any applicable laws or rules are proven to have been violated. This matter is now ready for a final agency determination.

John Poklemba: The Commission considered this matter at a meeting conducted pursuant to the judicial or quasi-judicial proceedings exemption of New York Public

Officers Law Section 108.1. The Commission duly deliberated and determined upon a vote of six to zero to sustain the hearing officer's report and recommendations.

That concludes our adjudications. We'll move onto old business. It is my understanding that we have several matters to discuss under old business, Rob?

Robert Williams: Yeah. There is actually one. It's a follow-up relative to the Lasix discussion that we've had at the last two meetings. What I had suggested at the last meeting.

We had a finalization of the survey that we conducted relative to a couple very specific questions. I would provide an overview of what those responses were.

There were 140 letters sent asking three questions. Should non-Lasix races be allowed? Should the Lasix be prohibited in 2-year-olds? Should the allowable dosage of Lasix be lower?

What we ended up doing was targeting these letters to the top 20 trainers at NYRA by wins; the top 20 trainers at Finger Lakes by wins; and then, the top 20 Thoroughbred and Standardbred owners by purses won. The recognized breeders organization for each Thoroughbred and Standardbred; and, the recognized Horseman's organizations at each Standardbred and Thoroughbred racetracks.

We also sent to the American Association of Equine Practitioners, and to the President, the racing Secretary, and the Chief Veterinarian at each racetrack; and to the non-state stewards at Thoroughbred racetracks. We ended up with 17 separate responses.

Not every letter responded to each question. But overall, seven letters from Standardbred interests were received. Ten were received from Thoroughbred interests. As to the non-Lasix racing, nine out of 15 responses were in favor of allowing non-Lasix racing.

Broken down by breed, one of six Standardbred responses were totally opposed to allowing for non-Lasix racing in New York. On the contrary, in Thoroughbreds, eight out of nine responses were in favor of allowing such racing.

As to a 2-year-old ban on Lasix use, 11 of 16 responses were in favor of the ban. In Standardbreds, four of seven responses were supportive of that. In Thoroughbred, seven of nine responses were supportive of a 2-year-old Lasix ban.

As to decreasing the allowable Lasix dosage, two of 12 respondents were in

favor. On the Standardbred side, four of four were opposed to the decrease. On the Thoroughbred side, two of three were supportive, while five sought additional study, or information before they would make a determination as to that.

John Poklemba: Thank you, Rob. Any discussion or any questions for Rob?

Unidentified Male: We had, sort of, talked about the California proposal again, a little bit. There was some concerns brought up around it. It's something, I think, we should really consider as a body.

But, some of the logistical issues surrounding it were going to be researched by staff further to determine, sort of; the concept staff and raised. That is a new issue with some timing and procedural problems that put us in an unfavorable position down the road. Where we wouldn't be able to get out of our own way.

We're, sort of, thinking through what that would mean? We'll have an answer back at the next meeting with some workarounds to figure that out. Right?

Robert Williams: Yeah. If we were to allow the non or Lasix to be carded, we do have some penal provisions within our own Lasix rules.

Unidentified Male: Right.

Robert Williams: That conceivably a trainer that has a horse on Lasix, that wants to experiment, and see if he could run off Lasix. Or, she could run off Lasix. If the horse bled again, it could be a substantial time by which that horse would be required to sit down. A small rule change would be necessary to at least allow the experimentation on behalf of the trainer.

Unidentified Male: Right. That also applied more broadly to what California has done, and looking to applying it here. Right?

Robert Williams: Yeah.

Unidentified Male: We're putting ourselves in a position where we weren't frozen in time, if indeed, somehow the industry adversely reacted to it.

Robert Williams: That's correct.

Unidentified Male: Yeah. We'll have more information for the next meeting.

Robert Williams: Certainly.

John Poklemba: Rob, I want to request that you include your responses in the minutes for this

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Robert Williams: Certainly.

John Poklemba: – Meeting, so I have that.

Robert Williams: I will make sure they're appended.

John Poklemba: Thanks. Any other questions for Rob about the Lasix issues? Any other old business? Any new business? Hearing nothing further....

[END OF TAPE]