

Executive Director Williams: The New York State Racing and Pari-mutuel Wagering and Breeding Laws' 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 at the consent of, the senate. Five members having been confirmed by the New York State Senate affords the Commission an ability to establish a quorum and undertake action. This present meeting of the Commission is now called to order. Ms. Secretary, will you please call the roll?

Secretary: John Crotty? Peter Moschetti?

Peter Moschetti: Here.

Secretary: John Poklemba?

John Poklemba: Here.

Secretary: Barry Sample?

Barry Sample: Here.

Secretary: Todd Snyder?

Executive Director Williams: Ms. Secretary, will you please have the record reflect that a quorum of qualified members are present, thus enabling the transaction of business? Please also note that Commissioner Crotty had previously indicated unavailability for today's meeting and Commissioner Snyder recently advised he is conflicted and cannot attend. Given the absence of a designated chair, would the members like to select someone for the purpose of residing over today's meeting?

Unidentified Male: I nominate Peter Moschetti.

Unidentified Male: Second.

Executive Director Williams: Mr. Moschetti?

Peter Moschetti: Thank you. First item for us, consideration of minutes for meetings, minutes meeting of December 13th, 2016. Minutes of the Commission meeting conducted on December 13th, 2016, have been provided to the members in advance. At this time, I'd like to ask the members if there are any edits, corrections or...? Hearing none, Madame Secretary please let the record reflect the minutes were accepted. Next on the agenda would be the report of the Executive Director, and that's Mr. Williams.

Executive Director Williams: Thank you. This afternoon, I'd like to discuss the status of the various casino projects, a few elements that were responsible, horse aftercare

initiative, and introduce the final version of a long-awaited video that will be required viewing for certain applicants and applicant renewals seeking a racing license.

As to the casino development, both Rivers Casino and Resort in Schenectady, and Del Lago Resort and Casino in Tyre, remain on target for their planned openings in February. As you may recollect, Rivers project is being constructed in two phases. Phase one is the low-rise building and consists of the casino, back of house offices, warehouse, event center and garage. Phase two being the hotel building. They received their temporary certificate of occupancy for the casino and back of house on January 6th, a temporary certificate of occupancy for the promenade, banquet space and garage on January 20th, and anticipate receiving a certificate for their spa on February 1st. The hotel is on track for a temporary certificate of occupancy to be issued June 1st, 2017. The gaming floor, including the surveillance system is now, we're told, ready for Commission inspection. To date, the project has produced more than 453,000 man hours and is 95% complete. The hotel stands at 47% complete.

Del Lago reports that the casino is 99% complete and that their hotel is 70% complete with only internal, interior work remaining. They received a temporary certificate of occupancy for the casino and back of house area back in November of 2016. They also received a temporary certificate for the gaming floor and the area for all the restaurants this past January 20th as well. In December, over 101,000 man hours were worked. And actually, I just got an update today and the casino is now 100% complete. The gaming floor, including the surveillance, is also ready for inspection by the Gaming Commission. The hotel that they had is on track for a temporary certificate of occupancy on July 1st.

As for the construction at Tioga Downs, work associated with the remodeling, the existing casino where the video lottery terminals were located has started. The developments of the new hotel, amenities building, and P.J. Clarke's restaurant remains ongoing. And the foundations are fully complete for the hotel, and 75% complete for the amenities building. At the end of December, Tioga started erecting the first-floor structural stud panels and second floor plank for the hotel. Work associated with the amenity building includes a 28-foot-tall retaining wall, which is approximately 25 feet from the existing building. The retaining wall is at 90% complete. There were approximately 51 tradesmen working on site and those individuals ended up working approximately 8,700 man hours in December.

Finally, Montrain Management reports that a variety of items have been completed including the site development, and that's excavation, concrete slabs in the parking garage, structural steel in the hotel, and concrete slabs for the hotel. There are a bunch of items that are also at 90% complete, including the precast concrete structure in the parking garage, foundation's excavation

and site rating, foundations, site utilities, structural steel for the podium, and site retaining walls. Before our next meeting in February, they expect to commence fire stopping exterior wall panels, HVAC major equipment purchases, skylights, electrical gear purchases, beginning of the swimming pool, and installation of the elevators and escalators. Overall, Montrain reports that some 48,000 union labor hours were expended during December, and that construction is at 40% complete.

With regard to the Commission's commitment to promote responsible aftercare of race horses, there are a few items I'd like to share today. First, we have created a responsible aftercare page on our website, located off the Horse Racing section. This location is designed to be a one-stop-shop for anyone looking to learn more about the issue of race horse retirement and the various initiatives undertaken by the Commission to promote the issue. Among those lines, the Commission's requirement that certain applicants and applicant renewals seeking a racing license must verify that they have viewed our video on the importance of horse aftercare and responsible retirement, will go into effect on February 1st. You may recall that a rough cut of video was debuted at last year's retired race horse event. The final edited video gives the viewer a brief overview of the lifecycle of the horse and discusses the many options for after care in New York state for both Thoroughbreds and Standardbreds.

In essence, the video underscores for the licensee, the level of import that we place on the issue, and the expectation that licensees will commit to ensuring safe homes for horses after their racing days have completed. We will be making the video available to racing facilities across the state, in case they would like to air it before or following a racing program. And with your allowance today, I'd like to have the video played. For those watching a video stream of our meeting, in case the video doesn't play clearly, it is available on the Commission's YouTube page and is linked through our website at the new Responsible Aftercare section. Do you want to play the video, Lee?

Unidentified Male: Hold on one second.

Video Speaker/ Larry Collmus: New York State horse racing is among the best in the world. The best owners and trainers, the best jockeys and drivers, the best venues and fans, and of course, the best horses. Hi, I'm Larry Collmus, track announcer for the New York Racing Association, and I'd like to show you how we take care of these horses in New York.

The horse racing industry is like no other. People from all over the world strive to be a part of this storied tradition. And once they experience it, they're often hooked.

Michael Bowen: I got into it because I really like drinking and gambling. And that was the beginning of it, and I thought if went to find out about more about horses, I would become a better gambler. And then, as luck would have it, it didn't improve my handicapping at all, but I totally fell in love with the horses.

Video Speaker/ Larry Collmus: Michael Bowen founded Old Friends in 2003 as a retirement home for Thoroughbred horses. Today, his facilities in Kentucky and Saratoga Springs are home to more than 160 horses, whose racing days are behind them.

Michael Bowen: These are great athletes and they deserve everything that we could possibly give them, whether they're racing or whether they're retired.

Video Speaker/ Larry Collmus: Old Friends is just one of several viable places where horses can go once their racing days are over. Organizations across New York work together to ensure horses have opportunities for second careers, private adoption, or retirement at safe facilities, all with the goal of promoting responsible retirement and aftercare of race horses. Part of the responsibility of the owner, trainer, and other connections is to understand the lifecycle of the horse.

Race horses are fouled, raised, trained, and begin their racing careers by the age of two. They have an average life span of 30 years, most of which occur well after their racing careers end. The Thoroughbred, on average, races until the age of 7, while a Standardbred usually races until the mandatory retirement age of 15. Fifteen to 23 years of a race horse's life is spent off the track. Part of being a responsible horse owner is simply being involved.

Michael Bowen: Learn about how to really take care of this horse. Plus, it'll increase your enjoyment of the sport. If you're just going to the races on Saturday, and hope to get your picture taken in the Winner's Circle, that's a lot of fun. It is. It's only happened to me a couple of times, but it's really, really a lot of fun. But even more than that, it's fun to come to the barn in the morning, see the horse, you might irritate the trainer a little, but that's all right, he's your horse, irritate the trainer.

Video Speaker/ Larry Collmus: Speaking of trainers, Nick Zito is a Hall of Fame trainer and lifelong New Yorker who goes extra lengths to ensure horses under his care end up in safe places after they leave the track.

Nick Zito: Yeah, I think a race horse is a -- not only a personal investment, a financial investment, but it's definitely a personal investment. Nick's stable employs a unique approach: He puts stickers on the foal papers identifying his stable, so that future owners have somewhere to turn to, to make sure the horse ends up in a safe home.

Jack Knowlton, of Sackatoga Stables, which owns Kentucky Derby winner Funnyside, worked on a state task force to study where horses end up after racing.

Jack Knowlton: Things have changed a lot now, and I think, particularly on the Thoroughbred side, there's an awful lot of interest and commitment on the part of the industry to make sure that there are no bad endings for the Thoroughbreds.

Video Speaker/ Larry Collmus: As more attention has been brought to equine aftercare, more resources have come with it. For smaller aftercare operations, however, it's all hands on deck to take care of these retired athletes. Kelly Holt from Sunshine Horses in central New York, fully understands this. For these farms to succeed, they need help from within and beyond the industry.

Kelly Holt: We get a lot of our monthly money on sponsorships, and when I say sponsorships, is that certain horses have sponsors that pay from seventy-five to two hundred dollars a month for the care of that animal, and that's where we get a majority of it. We do get, especially around Christmastime, a lot of people give in kind gifts to Sunshine. We do fundraising. We're having a huge annual open house and we do get a lot of money from there. And the tracks do support us somewhat. But everything is basically, Mom and Dad writing checks for birthday parties that are here. And I write checks, I sponsor a horse monthly. And that's where we get a lot of our revenue, nothing else comes but 100% donations.

Video Speaker/ Larry Collmus: Lisa Molloy manages Rerun Thoroughbred Adoption in East Greenbush, where they retrain, rehome, and put up for adoption retired horses.

Lisa Molloy: There are programs for older warhorses, there are programs for brood mares, there are programs for permanent sanctuaries, and then there's programs like us that retrain and rehabilitate for second careers. So there's plenty of options out there, but for those options to be viable and continue to be viable, they do needed funding, and they do need the support.

Video Speaker/ Larry Collmus: So how can one plan for this? Owners of racehorses should be prepared to contribute to a horse's aftercare. Think of it as a pension plan for the horse.

Michael Bowen: The first thing that you should do is start a social security or a 401(k) for your horse. Put away a little -- all the money you have. When they go to the sale, and they've got all the money's flowing now, the horse is two-years-old, they're excited about their derby prospect, everybody's going in, let's go, they're bidding a lot of money on these really well-bred horses. Just take a little bit of that and put it away.

Video Speaker/ Larry Collmus: Andy Belfiore and Rich Schosberg run the Take the Lead and Take2 second career programs at the New York Racing Association tracks, including Belmont, Aqueduct and Saratoga. To support their and other's efforts, many sales companies, individual tracks, and other organizations that collect fees from owners and trainers, in turn, contribute to after care organizations.

Rich Schosberg: Whether they know it or not, everybody who's involved in owning a Thoroughbred is feeding into this pension plan. And they can do over and above that, too, for an individual.

Video Speaker/ Larry Collmus: For Thoroughbreds, one of the most significant recent developments has been the establishment of the Thoroughbred Aftercare Alliance, or TAA. This nonprofit makes sure that organizations taking in horses are safe, and have adequate resources to properly care for them.

Andy Belfiore: They accredit the organization so that you know that the organization you're working with is doing everything right. From their financials, to the state of their facility, to how they care for their horses, everything is done to the best that can be done.

Video Speaker/ Larry Collmus: The TAA also brings much needed cohesion to the issue of aftercare and fairly distributes donated funds to accredited organizations. So besides contributing money to accredited organizations, what more can we, as an industry, do to take care of these animals? Turns out, quite a lot.

Nick Zito: And when a horse does have a problem, or gets, let's say, in a claiming race, which obviously, a lot of horses can't run any superior races, high class races, stake races, they follow them. They follow them. That's the responsibility, that's the person responsible, they follow them.

Video Speaker/ Larry Collmus: When it comes time for a horse to move on to a new owner, or an aftercare facility, good veterinary records are essential, not only to protect the horse, but to also prevent unnecessary treatments or tests.

Heather Carlson: Tell us exactly what you know about the horse. We only want what's in the best interest of the horse to begin with, so you being completely honest with us with what its injury was, or what its problems were, is only going to help us get that horse either a sanctuary, or the right home.

Video Speaker/ Larry Collmus: Of course, part of the responsibility we all share is to know about the various programs both in and beyond New

York State. From placement programs, like Take the Lead and Take2, to temporary retraining and rehoming facilities like New Locations and Rerun, to full retirement farms and sanctuaries like Old Friends and Equine Advocates, to adoption centers such as The Finger Lakes Thoroughbred Adoption Program, Akindale Thoroughbred Rescue, and Sunshine Horses, there are many great organizations and people dedicated to finding good homes for the horses that do so much for all of us.

Andy Belfiore: You come to us, one stop shopping, we'll find the horse a placement and if you can donate, that's fantastic.

Video Speaker/ Larry Collmus: Akindale Thoroughbred Rescue is located on 1,000 acres of pristine land in Pawling, on the estate of legendary horseman John Hettinger.

Erin Pfister: Yes, we welcome people to come. And they can come and visit, and learn the history of Akindale, and just see the facility and how well the horses look, and how well they're taken care of.

Video Speaker/ Larry Collmus: Up the road, in East Greenbush, is Rerun, a retraining and adoption center that, along with new locations, works closely with NYTHA's Take the Lead and Take2 programs.

Lisa Molloy: We average around 100 horses a year that we try to take in. Our main intake is directly from the track, either via the New York Horsemen Program or from trainers directly.

Video Speaker/ Larry Collmus: The Finger Lakes Thoroughbred Adoption Program is a unique operation, given its location. Founder Wanda Polisseni established the facility out of a long-standing concern for the care of the animals.

Wanda Polisseni: It's great. It is great to be able to lead your horse from the back side over here. That's one of the best things about our program and we are still the only one that's located on a physical racetrack.

Video Speaker/ Larry Collmus: Old Friends is a showcase for responsible horse retirement. The residents here, many of them famous Thoroughbreds, are truly retired and spend their days enjoying the pasture.

Michael Bowen: I mean, it's just an amazing group. And as I said, I wasn't star struck around the movie people, but I'm completely star struck around these animals. They're just unbelievable. And I'm in love with them. I just can't help it.

Video Speaker/ Larry Collmus: On average, there are 27,000 Thoroughbred starters in New York state. But most people probably don't

realize that there are three times as many Standardbred starters in the state, harness horses that may not receive the fame and notoriety of their Thoroughbred cousins also need care after their racing days are over. Sunshine Horses in central New York is a program specializing in Standardbreds. Their motto is, helping horses, helping people.

Robin Young: It's our goal to find the right adaptor. Whatever they're looking for, a Standardbred can do it, it's just, which Standardbred?

Video Speaker/ Larry Collmus: Racehorses have skill sets that are tailor-made for second careers. That's why it's important that owners, trainers, and all connections work together to make sure a horse is healthy and responsibly retired, so that it has the opportunity to thrive in another line of work. Second careers can include serious work, such as working as police mounts; performance, such as show and jump competitions; or recreation, such as trail riding. In the end, all participants in the horseracing industry have a duty to look after these animals that provide us with so much entertainment, at take steps to ensure that they have a safe and comfortable life both on and off the track.

Michael Bowen: If you're going to do something to a horse, make sure it's in the horse's best interest. And if you think that what you're going to do that horse is in the horse's best interest, then go ahead and do it, but if it's not, don't. It's a very simple way to do it, but I think it's a good rule.

Video Speaker/ Larry Collmus: New York's horseracing is second to none because as an industry, we know these horses that give their very best deserve our very best in return. Consider the horse's lifespan and take steps to learn about the resources available when getting into the racing game. Let's continue to be a model for the rest of the world and work together to make sure these athletes are treated with the best care for their entire lives.

I'm Larry Collmus and thanks for watching.

Executive Director Williams: I would like to specifically thank our Director of Communications, Lee Park, and Jack Knowlton, for the hours that they put into the scriptum, filming and editing of the piece, and for arranging those who appeared in the video. I also want to add that we were greatly assisted by the New York State Office of Media Services in the professional productions relative to the concepts that we had, to getting it to the final product.

Finally, as we have discussed on numerous occasions, there's been little concrete research to determine the size and scope of the aftercare issue. To better define it, the Commission has endeavored to locate all New York bred Thoroughbreds that raced between 2010 and 2012 and haven't raced anywhere since. The ultimate goal of the project is to provide a snapshot of the size and scope of the issue of retired racehorses in New York state. The

Jockey Club graciously provided us with a listing of such horses including the date, the track and the date and the track of the horse's last race. Of the more than 3,800 Thoroughbreds that fit that criteria, we've been able to locate just over 1,700, thus, we're asking all interested parties for assistance. The Commission's Responsible Aftercare page now includes a downloadable list of these horses and instructions on how people can help. If anyone in the industry cares to take a look at the list and you know the whereabouts or status of any of these horses, we would really appreciate the information.

Peter Moschetti: I think you guys did a great job on that video. An issue that I find to be very important. I have to say, too, in the last two years, there's been a lot of work on aftercare by the Commission. You guys have put a lot of time involved in very difficult subject matter because it's hard to get our hands around it, but I think the emphasis then trying to find out what is needed, and then, trying to make sure that it's funded by all the benefit for horses. So I know, although we don't talk a lot about it here in the meetings, a lot of work has been done here _____ [00:22:48].

Next on the agenda, we go to rule making. 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. Therefore, the Commission will, from time to time, promulgate rules and rule amendments pursuant to the State Administrative Procedures Act. We have eight items for consideration today. Mr. Williams, will you please outline the first item?

Executive Director Williams: Certainly. For Commission consideration is adoption of a rule regarding advertising and promotional materials on jockeys and Thoroughbred racing. Generally, a jockey may wear advertising and promotional material only with the permission of stewards. The proposed rule would eliminate the permission requirement for the logos of the Jockey's Guild and the Permanently Disabled Jockey's Fund, so long as the logos do not each exceed ten square inches. The rule would further allow jockeys to display their names on pants and the rear of their helmet with certain color and size restrictions, thereby giving these athletes increased recognition. The text for the proposed rule was published in the State Register on November 9th, 2016. The public comment period expired on December 27th. No comments were received. Staff recommends that the Commission adopt this proposed rulemaking.

Unidentified Male: Commissioners, any questions on adoption of the rule regarding Thoroughbred jockey advertising?

Unidentified Male: No.

Unidentified Male: No.

Unidentified Male: May I have a motion to adopt this rule?

Unidentified Male: So moved.

Unidentified Male: Second.

Unidentified Male: Second.

Peter Moschetti: So we have a motion _____ [00:24:31].

Executive Director Williams: For Commission consideration is adoption of a rule regarding the bonding of video lottery agents. Since the commencing into video lottery gaming, agents have been required to provide a bond that corresponded with no less than a defined percentage of five days estimated average daily net win. The percentage used for the last decade has been 65, set to nearer the state's initial statutory revenue retention from the facilities. Since establishment of that initial percentage, laws have been modified, which change agent and vendor retention. Simply, the agent and vendor retention now varies at each gaming facility. Amendment of the existing rule will allow the flexibility to require bond coverage from each video gaming facility to commensurate with the state retention percentage at such facility. While the existing rule allows Commission staff to grant waivers of the 65% requirement for good cause, amendment to the rule would make the bonding requirement consistent with the original intent, to secure five days of the state's revenue share of net win at each facility. The text of the proposed rule was published in the State Register on November 23rd. The public comment period expired on January 9th, 2017. No comments were received. Staff recommends that the Commission adopt this proposed rulemaking.

Peter Moschetti: Any discussion on the adoption of this rule?

Unidentified Male: No.

Peter Moschetti: Hearing none, can I have a motion to adopt this rule?

Unidentified Male: So moved.

Unidentified Male: Second.

Peter Moschetti: Any discussion on the motion? Hearing none, all in favor?

Unidentified Male: I.

Unidentified Male: I.

Peter Moschetti: The motion carries.

Executive Director Williams: For Commission consideration is adoption of a rule regarding Standardbred race secretaries and assistant race secretaries conflicts of interest restrictions. The current rule prohibits a harness track racing secretary or assistant secretary from being licensed as an owner, trainer, or driver during the racing season. There are, however, potential conflicts of interest if a racing secretary or assistant racing secretary were allowed to race or drive a horse, even if such racing occurs out of state because working for, or competing against, an owner whose horses may appear at a New York track could be perceived to compromise the objective performance of such official's New York duties. This proposal aims to strengthen current rules by broadening the prohibitions against activities in which such officials may engage. The proposal also makes procedural alterations moving the current conflict of interest rule from Part 4116, which governs drivers, to Part 4105, which governs officials of race meetings.

The text of the proposed rule was published in the State Register on November 23rd. The public comment period expired on January 9th. One public comment was received from Buffalo Raceway. Buffalo Raceway supports the proposal but suggests that it should not include roles at the track, other than the racing secretary or assistant racing secretary, without the opportunity for a hearing on the potential conflict ruling regarding those other roles. Staff notes that the proposed rule recodifies the existing rule that prohibits officers, directors and executives at a racetrack from driving at that track and broadens restrictions on the racing secretary and assistant racing secretary, but does not apply to those roles: track maintenance crew, starting gate driver, and paddock maintenance personnel, which Buffalo Raceway had expressed concern. Staff recommends that the Commission adopt this proposed rulemaking.

Peter Moschetti: Any questions on the adoption of this rule? Hearing none, may I have a motion to adopt this rule?

Unidentified Male: So moved.

Unidentified Male: Second.

Peter Moschetti: Any discussion on the motion? Hearing none, all in favor?

Unidentified Male: I.

Unidentified Male: I.

Peter Moschetti: The motion carries.

Executive Director Williams: For Commission consideration is a proposed rule that would strengthen regulations related to exercise-induced pulmonary hemorrhage, or EIPH in Thoroughbred racing. The proposal sends rule recommendations in

the Asmussen report and subsequent, any formal proposal industry comment. As the Asmussen Report detail, there is an emerging scientific consensus that repeated episodes of serious EIPH can be debilitating to a horse. This proposal requires trainers to maintain a record of serious EIPH episodes, which were defined with the universally used one to four grading system, and epistaxis visible bleeding from the nostrils as number five.

Records created pursuant to the amended rule would be required to be maintained by trainers for four years, unless given to a subsequent trainer or owner, or reported to the Commission. The Commission would establish a reporting system to collect such information from trainers. For convenience of reporting, a trainer may delegate this reporting duty to their treating veterinarian. In general, the most salient portions of the rule proposal requires that a horse that has experienced a serious EIPH episode must be subjected to another endoscopic examination following their next race or workout and requires trainers to provide such information to subsequent owners, their agents or trainers within 48 hours of a request for the information, unless the Commission has collected and provided the information itself. The proposal would also codify the standard practice of excluding a horse that experiences epistaxis for specific minimum time periods.

Two written industry preproposal comments were received. One from the New York Racing Association, and the other from the New York Thoroughbred Horsemen's Association. NYRA recommended the Commission adhere to the national exclusion periods following epistaxis. They also raised concern that trainers may fail to adhere to the rule due to self-interest. Commission staff reviewed and found a range of time exclusions among the several racing states, thus, we aligned the proposal with the ARCI model rule. NYRA also suggested that should the rule be adopted, the Commission should pursue an equine steroid administration log program-like reporting system. The Commission agrees with the establishment of an ESAL reporting-like system. NYTHA's comment also requested epistaxis-based exclusion periods follow the ARCI model rule. They also raised concern regarding the enforcement of any reporting requirement, suggesting that horses shipping into New York would be difficult to control. They suggested the Commission work with ARCI and the Racing Medication and Testing Consortium to establish a national protocol and rule.

Commission staff believes that we should proceed with this proposal while encouraging other states to follow suit. We note that the Commission pioneered the portico [?] joint administration reporting, which has since been replicated in other jurisdictions. It is important to note that this a rulemaking proposal, thus, upon publication in the State Register, affected and interested parties will have a 45-day period to tender comments and concerns. Staff recommends that the Commission authorize the proposal of this rulemaking.

Peter Moschetti: Any questions on the proposal of the rule regarding exercise and use of pulmonary hemorrhage? Hearing none, may I have a motion to propose this rule?

Unidentified Male: So moved.

Unidentified Male: Second.

Peter Moschetti: Any discussion on the motion? Hearing none, all in favor?

Unidentified Male: I.

Unidentified Male: I.

Peter Moschetti: The motion carries.

Executive Director Williams: For Commission consideration is a proposal to revise the Thoroughbred racing rules on minimum penalty enhancement. These rules, adopted by the Commission in February of 2016, were designed to ensure that every state imposes a minimum mandatory penalty whenever a horse person, typically the trainer, reaches a certain level of multiple equine drug violations. The proposed amendment is intended to conform New York's rules to changes in the national model rules recently adopted by the Association of Racing Commissioners International. As you may recall, the Racing Medication and Testing Consortium developed the initial proposal, which was adopted by ARCI as the national model rule. Several states have not adopted the model rule, due to perceived harshness. As a result of these concerns, RMTC revised its proposal to exempt a horse for minor medication violations, mitigate the harshness of the system, and introduce a range of penalties that grant some discretion to racing commissions. The ARCI board of directors adopted these changes into an amended model rule this past December 2016. These changes have received widespread support.

Several racing jurisdictions, including New York and New Jersey traditionally impose more serious equine drug penalties than some others. New York's multiple medication violation rules include explicit provisions that allow the imposition of more serious penalties in the model rule, pursuant to New York's evaluation of prior violations. The New York rule would not allow the multiple medication violation penalty enhancement, where our penalty for a precipitating rule violation includes a comparable consideration of such prior violations. The proposed revisions will appropriately focus the multiple medication violation system on those who continually violate serious medication and anti-doping rules and assist in developing a national consistency regarding the punishment. It is important again, to note that this is a rulemaking proposal and upon publication in the State Register, affected and interested parties will have a 45-day period to

tender comments and concerns. Staff recommends that the Commission authorize the proposal of this rulemaking.

Peter Moschetti: Any questions on the proposal of this rule?

Unidentified Male: Just, Bob, what impact do you think that this will have?

Executive Director Williams: I think then there'll be greater acceptance by other states in the model national rules, which will allow a progression nationwide penalty structure will be more widespread.

Unidentified Male: Thank you.

Peter Moschetti: Any other? May I have a motion to propose this rule?

Unidentified Male: So moved.

Unidentified Male: Second.

Peter Moschetti: Any discussion on the motion? Hearing none, all in favor?

Unidentified Male: I.

Unidentified Male: I.

Peter Moschetti: The motion carries.

Executive Director Williams: For Commission consideration, a proposed revision to the Thoroughbred Out-of-Competition Sample Collection rule, intended to conform our existing rule to the national model rule of the Association of Racing Commissioners International, that was amended this past December. In general, the Out-of-Competition rule protects racing integrity by making it possible to collect samples from horses that are engaged in horseracing, but are not entered to race or on the grounds of a licensed racetrack. Such samples allow the Commission to detect administration of racehorses in violation of Commission rules, particularly, doping agents that increase red blood cells, mask pain, or increase a horse's ability to race beyond its natural limits. The amended ARCI rule was drafted by the Racing Medication and Testing Consortium and revised by staff from leading jurisdictions. The amended model rule, which received widespread industry support, authorizes an effective collection program that protects the constitutional rights of horse owners and trainers when a regulatory jurisdiction seeks to collect out-of-competition samples.

Recall that in 2015, the Commission authorized a proposal to amend the Thoroughbred Out-of-Competition rule to match updates undertaken by the Commission's Standardbred Out-of-Competition rule. Before the

Commission's proposal was published in the State Register, a national effort to revise the ARCI model rule was undertaken. As such, the proposed rules were not published in anticipation of the model rules' amendment. The Commission's 2015 proposed amendments, together with the recommendations from many other sources, are contained within the new ARCI model rule. Like the other two, this is a proposed rulemaking, thus, giving affected parties and interested parties a 45-day period to tender comments once publication in the State Register is made. Staff recommends that the Commission authorize the proposal of this rulemaking.

Peter Moschetti: Any questions on this proposed rule? Hearing none, may I have a motion to propose this rule?

Unidentified Male: So moved.

Unidentified Male: Second.

Peter Moschetti: Any discussion on the motion? Hearing none, all in favor?

Unidentified Male: I.

Unidentified Male: I.

Peter Moschetti: The motion carries. May we have the next proposal?

Executive Director Williams: For Commission consideration, a proposed rule to prohibit in Thoroughbred horseracing, the substances that the World Anti-Doping Agency prohibits at all times, unless an athlete has a restricted therapeutic use exemption, based upon restricted therapeutic uses that are appropriate for horseracing, to require that no drug be administered to a horse engaged in horseracing activities, unless recommended by an attending veterinarian, and to prohibit the experimental use of performance-altering substances on racehorses. These rule amendments would implement several of the rulemaking proposals recommended in the Asmussen report that the Commission staff issued in November of 2015.

Two preproposal industry comments were received. One from the New York Racing Association, and the other from the New York Thoroughbred Horsemen's Association. NYRA expressed support for the intent of the proposal, but raised general concern with possible vagueness, and suggested that the Commission develop a rule proposal that enjoys national uniform support. NYTHA suggested a similar cooperative commitment to integrity and welfare, but sought discussion regarding matters of regulating certain substances. They, too, suggested that the Commission develop a rule proposal that enjoys national uniform support. This past December, the Association of Racing Commissioners International adopted this proposal as a national model rule, following the input and support from leading Thoroughbred

organizations, thereby addressing the concerns raised by NYRA and NYTHA.

Again, it's important to note that this is a rulemaking proposal, and that upon publication, interested parties will have a 45-day period to tender additional comments or concerns. Staff recommends the Commission authorize the proposal of this rulemaking.

Unidentified Male: Rob, was there any difference between the proposal that we received the comments on, and the proposal that was adopted by the Association of Racing Commissioners International?

Executive Director Williams: Well, with us today we have Rick Goodell, who served as an attorney representative at ARCI for quite a number of time, who's probably best capable of answering that. Mr. Goodell, would you like to _____ [00:40:17]?

Rick Goodell: Yes, who asked the question [?]?

Unidentified Male: I did.

Rick Goodell: In the public comments we received, there was a specific question about thyroxine. In the Asmussen report, the suggestion was a 30-day limitation before racing on the use of thyroxine, as well as some other ideas. In general, both NYRA and NYTHA also wanted us to work it out so that it was a uniform proposal nationally. Thyroxine was changed from what had been in the Asmussen report to eliminate that 30-day requirement, but what has remained are some very tight restrictions on the use and the possession of thyroxine on the track. These would show up in your materials in the chart at the end of this rulemaking proposal.

Unidentified Male: And that was the only change?

Rick Goodell: That was the only thing that was commented on in the public comments that we received informally.

Unidentified Male: Thank you.

Peter Moschetti: Any further questions? Hearing none, may I have a motion to propose this rule?

Unidentified Male: So moved.

Unidentified Male: Second.

Peter Moschetti: Any discussion on the motion? Hearing none, all in favor?

Unidentified Male: I.

Unidentified Male: I.

Peter Moschetti: The motion carries.

Executive Director Williams: For Commission consideration is a proposed rule that required Thoroughbred trainers to keep a record of medications administered by the trainer, after having been dispensed by veterinarians. Veterinary records available at barns generally contain no record of administration. This proposal exempts anti-ulcer medications commonly added to feed, and other noninjectable drugs rated harmless by the Association of Racing Commissioners International. The proposal would also allow the Commission to require trainers to keep such records in a particular form, and to make such records available for inspection for a period of six months. A trainer's medication log was one of the several proposals recommended by the Governor Andrew Cuomo's Task Force on Racehorse Health and Safety in 2012, and by the Asmussen Report in 2015.

Two comments were received during the preproposal phase, one from the New York Racing Association and the other from the New York Thoroughbred Horsemen's Association. NYRA raised concern with the rule as being impractical, suggesting that few trainers would adhere to the requirement. They suggested that the Commission develop a rule proposal that enjoys national uniform support. NYTHA suggested no concern with the recordkeeping requirements, provided that the proposal did not interfere with the administration of noninjectable substances a trainer might need to administer in emergency situations when veterinarians are not available.

Staff notes that an ARCI committee of representatives from leading racing jurisdictions examined a draft trainer's medication log rule, and unanimously recommended the concept. The ARCI Model Rules Committee, however, tabled a draft of the rule this past December in order to consider restrictions on the rule's reach, specifically exempting those class 5 (V) or harmless drugs, clarify the rule's scope regarding drugs administered by a trainer after dispensation by a veterinarian, unless the trainer verifies the veterinarian recorded the drug administration regime, and ensure that there is a practical time requirement, based upon current medical issues, in racing regulator investigations. This proposal includes modifications addressing each of those concerns.

It is important to note that this is a rulemaking proposal, thus, upon publication, interested parties will have a 45-day period to tender comments and concerns. Staff recommends that the Commission authorize the proposal of this rulemaking.

Peter Moschetti: Any questions on the proposal of the rule regarding trainer medication?

Unidentified Male: Just one. I know it's not directly related to administration, but what records do the vets currently keep?

Executive Director Williams: Mr. Goodell, you want to address that?

Mr. Goodell: Yes, Commissioner Sample, our current rules require veterinarians to keep detailed records of all of their drug administrations that would include the details that are specified here. The drug, the dose, the date of treatment, and so forth. But sometimes, when the drugs are dispensed to the trainer, the veterinarian won't have a record of when those drugs are actually being dispensed, and this would fill that gap in recordkeeping.

Executive Director Williams: And, Rick, correct me if I'm wrong, but in a general sense, those records are not kept or maintained at the barn?

Mr. Goodell: The latter? No. They're not kept permanently and the veterinarian's records, of course, would be kept by the veterinarian.

Unidentified Male: Rick, if the Model Rules Committee tabled this draft, would we be better off waiting until we see what they come up with?

Mr. Goodell: What we did after it was tabled, was to examine the input that was received, and in our judgement, this is the direction that they will go. It's something to consider. I think, our feeling was that we think -- make the changes that were under discussion at the Model Rules Committee meeting. What was most important at that meeting was that there was unanimous agreement that there should be a requirement that the trainer keep a log of these types of administrations, which is a new advancement at the national level.

Unidentified Male: So Commissioner, _____ [00:46:07] clarify the text of the rule that was tabled by the national committee was not this text. This text modifies what was tabled to incorporate the concerns that were expressed.

Unidentified Male: Now, would we have an opportunity during the 45-day period to include any changes that the Model Committee makes?

Executive Director Williams: Well, we've already done that. What the Model Committee had done was suggest that there were certain changes that they wanted to our rule. We've changed that in the preproposal, so now we now we reflect all those changes that were articulated at the ARCI meeting. So we believe that the ARCI, and correct me if I'm wrong, Rick, but we believe the ARCI when the Model Rules Committee next takes up and considers this, our rule will be consistent with what they will be looking at, and likely to consider.

Mr. Goodell: We believe that in addition, the parties that would know about our proposal, if you do propose this, would have the opportunity to comment and they

would include the same individuals that would be participating in that process.

Unidentified Male: Right.

Unidentified Male: Okay, that's what I thought. Thank you.

Peter Moschetti: Any further questions or discussion?

Unidentified Male: No.

Peter Moschetti: May I have a motion then, to propose this rule?

Unidentified Male: So moved.

Unidentified Male: Second.

Peter Moschetti: Any discussion on the motion? Hearing none, all in favor?

Unidentified Male: I.

Unidentified Male: I.

Peter Moschetti: The motion carries. Next item, please.

Executive Director Williams: The next item on the scheduled business regards adjudications. Today we have one item for adjudication and that is in the matter of Mike A. Gonzalez. On July 29, 2016, Commission staff issued a notice of hearing to jockey agent Mike A. Gonzalez that a hearing would be held to consider whether his license to participate in Thoroughbred racing should be revoked and whether he should be fined. The notice stated that Mr. Gonzalez had been convicted as a result of plea bargain, of an attempt to commit computer trespass, after having been arrested for computer trespass, and tampering with a sports contest in the second degree, based up on the conduct of bribing a New York Racing Association official to gain access to nonpublic information through such official's computer.

The notice alleged as a basis to revoke the license in Racing Pari-Mutuel Wagering and Breeding Law, Section 222, which provides that Thoroughbred racing license may be denied if an applicant fails to establish, "Experience, character and general fitness, such that participation will be consistent with the public interest, convenience or necessity, and with the best interest of racing generally." And that, "The Commission may refuse to issue or renew a license, or may suspend or revoke a license, if it shall find that the applicant has been convicted of a crime or crimes in any jurisdiction, or has been guilty of or attempted any fraud or misrepresentation in connection with racing, or has violated or attempted to violate any law with respect to racing in any

jurisdiction, or any rule, regulation, or order of the Commission, or shall have violated any rule of racing, which shall have been approved or adopted by the Commission, or has been guilty of or engaged in similar or related practices.”

The notice further alleges violations of Commission rules 4042.1(a) and 4042.1(f) which concern bribes and offer to bribe and fraudulent or corrupt acts, and stated that the conduct disqualified Mr. Gonzalez from qualifying for licensure, pursuant to rule 4002.8 and constituted grounds for revocation of his license, pursuant to rule 4002.9. A hearing was conducted on October 11th, 2016. The hearing officer submitted a report to the Commission’s acting secretary, dated December 9th. The hearing officer recommended that the license be revoked, suspended, and/or not renewed for a period of at least three years, and that an appropriate fine up to an amount of \$25,000 be imposed. The Commission considered this matter at a meeting conducted pursuant to the judicial or quasi-judicial proceedings exemption of New York Public Officer’s Law, Section 108.1.

Peter Moschetti: The Commission deliberated and considered this matter and it determined upon a vote of 3 to nothing to except the findings of the hearing officer with respect to the conduct here. With respect to the punishment, it was the decision of the Commission that the punishment should be a revocation of the license and an ineligibility for replying for a license for a period of ten years, and a fine of \$25,000. Now, next agenda, we have new business and old business. Old business, any? There is none on the agenda. Anybody have any to consider?

Unidentified Male: No.

Peter Moschetti: Hearing none, on to new business. We also have no items scheduled as new business on the agenda. Does anyone have any other new business to consider? Hearing none, go to scheduling of the next meeting. We have traditionally met on the fourth Monday of each month, which for February, would be the 27th. Would you please advise, Ms. Buckley, of your availability? So I think that concludes today’s published agenda. Do the Commissioners have any items they’d like to present for consideration? Hearing no other items for consideration, this meeting of the New York State Gaming Commission is adjourned.