

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

CE ~~MSM~~ 3/4/92

RULE REVIEW CHECKLIST

File No. ~~#~~ 1902
DATE RECEIVED 3-3-92
REVIEW DATE 3-12-92
DUE DATE 3-17-92
(DIS)APPROVED 3/17/92
WITHDRAWN _____

Docket No. 05.0009.0733
ADOPTED W/O HEARING _____
EMERGENCY RULE _____
TO REVISOR ON 3-4-92
REVISOR (DIS)APPROVED 3-5-92
FILED W/SEC. OF STATE 3-17-92
RETURNED TO AGENCY 3-17-92

_____ Rule as adopted (4 copies)

_____ Notice to Solicit Outside Information/Opinion (if applicable)
_____ Date published in State Register
_____ Comments

_____ Petition for Adoption of a Rule

✓ Board's Authorizing Resolution
December 19, 1991 Date adopted

✓ Proposed Rule
_____ Revisor's Certificate

_____ Notice of Intent to Adopt Rule
240.23 240.24 Statutory Authority
✓ Small Business Statement
✓ Expenditure of public money statement
December 19, 1991 Signature

✓ Statement of Need and Reasonableness (if applicable)
✓ Small Business Statement
NA Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
January 10, 1992 Dated (30)/25 days before adoption
✓ Notice attached indicates it is attached
_____ Copy of rule or summary attached

✓ Publication in State Register
January 13, 1992 Date (30)/25 days before adoption

✓ 180-day deadline from:
✓ Effective date of law requiring rule (14.12) (both rules) amendments don't apply
✓ end of comment period (§ 14.26) (rules without hearing)
_____ effective date of statutory authority (§ 14.29) (emergency rules)

✓ Resolution Adopting
Feb 28, 1992 Date adopted

_____ Findings of Fact, Conclusions & Order Adopting
Feb 28, 1992 Date

✓ Written Requests, Submissions or Comments

_____ Declaration of Attorney
_____ Name of SAAG representing agency

_____ Notice of Submission to Attorney General (if applicable)

_____ Affidavit of Mailing Notice to Attorney General (if applicable)

DEPARTMENT: Office of the Attorney General **STATE OF MINNESOTA**

OFFICE MEMORANDUM

DATE: March 17, 1992

TO: RICHARD KRUEGER
Minnesota Racing Commission
7825 Washington Avenue South
Suite 800
Bloomington, MN 55439

FROM: MARY JO MURRAY
Special Assistant Attorney General
525 Park Street, Suite 500 (55103)

PHONE: 296-3258

SUBJECT: In the Matter of the Adopted Rule Relating to Horse Medication

The above-referenced rule has been approved as to its legality by the Attorney General on March 17, 1992.

Enclosed is your copy of the approved rule. This office has already filed two copies with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submissions or comments along with any extra copies of documents which you submitted to the Attorney General.

Your next step is to arrange for publication of the Notice of Adoption in the State Register. In a day or two, you should receive from the Revisor's Office three copies of the notice of adoption of your rule. You should submit two copies of the Notice of Adoption to the State Register for publication. A permanent rule without a hearing does not become effective until five days after a notice of adoption is published in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

If you have any questions in this regard, please contact me.

MJM:jj
Enclosures
cc: E. Joseph Newton
William Brown, Chief Judge
MaryAnn Hruby

Minnesota Racing Commission

Adopted Permanent Rules Relating to Horse Medication

Rules as Adopted

7890.0100 DEFINITIONS.

[For text of subps 1 to 12, see M.R.]

Subp. 13. **Medication.** "Medication" is a substance, compound, or element, or combination thereof, which is or can be administered to a horse for the purpose of preventing, curing, or alleviating the effects of any disease, condition, ailment, or infirmity, or symptom thereof, or for altering in any way the behavior, attitude, temperament, or performance of a horse, including athletic performance. The term medication includes all analgesics, anesthetics, depressants, narcotics, stimulants, tranquilizers, and other classifications of medications. Nothing herein shall be deemed to include:

[For text of item A, see M.R.]

B. Lasix®, provided, however, that it is administered pursuant to the provisions of part 7890.0140, subpart 7a, and further provided that the test sample does not contain:

(1) more than 80 nanograms per milliliter of plasma furosemide;

(2) less than 40 milligrams creatinine per 100 milliliters urine; and

(3) urine furosemide, measured in micrograms per milliliter, in a quantity such that the ratio of urine furosemide to urine creatinine exceeds 0.15.

[For text of items C and D, see M.R.]

[For text of subp 14, see M.R.]

Subp. 15. **Positive test.** "Positive test" means the detection of any medication or metabolites thereof in a test sample or a test level of Bute or Lasix® above the allowed level.

[For text of subp 16, see M.R.]

Subp. 17. **Test level.** "Test level" means the

concentration of Bute or Lasix® found in a test sample.

[For text of subps 18 to 21, see M.R.]

7890.0130 FINDINGS OF CHEMIST.

Subpart 1. **Prima facie evidence.** A finding by a chemist of any medication, substance foreign to the natural horse, or Bute or Lasix® exceeding the allowable test levels provided in part 7890.0100, subpart 13, items A and B, in the test sample of a horse shall be considered prima facie evidence that the medication, substance, Bute or Lasix® was administered to the horse and carried in the body of the horse while participating in a race.

Subp. 2. **Distributed purse money.** The fact that purse money has been distributed prior to the issuance of the chemist's report shall not be deemed a finding that no medication or Bute or Lasix® exceeding allowable levels was administered to the horse earning such purse money in violation of this chapter.

7890.0140 BLEEDERS.

[For text of subps 1 to 5, see M.R.]

Subp. 6. **Lasix® may be permitted for certified bleeders.** Upon request, any horse placed on the bleeder list shall, in its next race, be permitted the use of Lasix®. Once a horse has raced with Lasix®, it must continue to race with Lasix® in all subsequent races unless a request is made to discontinue the use. If the use of Lasix® is discontinued, the horse shall be prohibited from again racing with Lasix® unless it is later observed to be bleeding pursuant to subpart 1 or meets the requirements of subpart 3. Requests for the use of or discontinuance of Lasix® must be made to the commission veterinarian by the horse's trainer or assistant trainer on a form prescribed by the commission on or before the day of entry into the race for which the request is made.

Subp. 7a. **Conditions required for Lasix® administration.** Lasix® shall be administered intravenously by a veterinarian employed by the owner or trainer of the horse. The Lasix® must

be administered at least four hours before scheduled post time for any bleeder entered to race and the dose level of Lasix® must be at least 150 milligrams and must not exceed 250 milligrams (no less than three nor more than five milliliters of a 50 milligram/milliliter or five percent solution) per administration.

The practicing veterinarian must deposit with the commission veterinarian an unopened supply of Lasix® and sterile hypodermic needles and syringes to be used for the administration. The Lasix® must be administered under the supervision of a person employed by the commission.

Subp. 10. **Responsibility of trainer.** The trainer is responsible for ensuring that the horse is available at the appropriate time for its treatment. At the time of treatment, the trainer must provide to the commission employee observing the treatment a statement signed by the trainer or assistant trainer that indicates the barn number and stall number where the horse will be detained following treatment and the names of all employees permitted by the trainer to be in contact with the horse during that time. The statements shall be on a form prescribed by the commission. After having been administered Lasix®, the horse shall at all times be in the care, custody, and under the visual supervision of the trainer or a licensed person assigned by the trainer. The horse must remain in its own stall until it is taken to the paddock to be saddled or harnessed for a race. It shall not be handled by anyone other than the trainer, the owner, or the employees listed on the trainer's signed statement. If emergency veterinary attention becomes necessary, the trainer is responsible for immediately notifying the commission veterinarian of the nature of the need and of the identity of the responding veterinarian. The trainer shall be responsible for the guarding, condition, care, and handling of the horse at all times.

7890.0150 DISCLOSURE OF APPROVED MEDICATIONS TO PUBLIC.

The names of all horses that have been approved for race

day use of Bute or Lasix® must be identified in the daily racing program. The names of all horses that have been treated with Bute shall be posted on the public information boards in the grandstand by the association by one hour before post time of the first race on the day such horses are to race. Horses that are racing for the first time using Lasix®, must be so identified in the daily racing program.

7890.0160 RESPONSIBILITY OF VETERINARIAN.

No veterinarian may administer a medication or substance foreign to the natural horse to any horse that is scheduled to race within 48 hours, except as permitted in part 7890.0100, subpart 13, or in the case of a medical emergency requiring immediate treatment. No veterinarian may place a nasogastric tube in a horse that is scheduled to race within 48 hours, except in the case of a medical emergency requiring immediate treatment. No veterinarian may enter the stall of or otherwise handle a horse that is scheduled to race within four hours, except in the case of a medical emergency requiring immediate treatment. In emergency cases it is the responsibility of the attending veterinarian to notify the commission veterinarian of the nature of the emergency and the exact treatment provided. The notification must be made as soon as practical (within one-half hour of an emergency that occurs during training or racing hours or by 8:00 a.m. on the morning following an emergency which occurred during evening or night hours) and on a form prescribed by the commission.

7892.0120 TAKING OF SAMPLES.

Subpart 1. **Horses tested.**

[For text of item A, see M.R.]

B. Blood and/or urine test samples may be taken from randomly selected horses during each racing program, from horses designated by the stewards or the commission veterinarian at any time upon suspicion that a violation of chapter 7890 has occurred, or for testing the quantitative levels of furosemide in the plasma or urine and the level of urine creatinine of

treated horses.

[For text of items C and D, see M.R.]

[For text of subps 2 to 6, see M.R.]

APPROVED AS TO FORM AND LEGALITY

March 17 19 92

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY _____
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

MAR 17 1992

Joan Anderson Growe
Secretary of State

10:15 AM
PRB

Statutory Authority 240.23 - .24

The commission shall by rule establish a graduated schedule of civil fines for violation of laws related to horse racing or of the commission's rules.

240.24

The commission has authority in addition to all other rulemaking authority granted elsewhere in Laws 1983, Chapter 1983, Chapter 214, to promulgate rules governing

MINNESOTA RACING COMMISSION
7825 Washington Avenue South, Suite 800
Bloomington, Minnesota 55439
Telephone: 612-341-7555
Fax: 612-341-7563

Licensing Office (April - October)
P.O. Box 315, Shakopee, Minnesota 55379
Telephone: 612-496-7739 Fax: 612-496-7756

Veterinary Office (April - October)
P.O. Box 315, Shakopee, Minnesota 55379
Telephone: 612-496-7753 Fax: 612-496-7762

3-3-92

February 28, 1992

Ms. Patty Nolte
Attorney General's Office
525 Park Street
St Paul MN 55155

Dear Patty:

At its meeting on Friday, February 28, 1992, the Minnesota Racing Commission formally adopted rules governing horse medication. In accordance with that adoption, enclosed you will find the following documents:

1. Three copies of the Rules as proposed;

2. Four copies of the Rules as adopted;

3. Copy of Affidavit of Mailing of Rule and Certificate of Mailing List.

4. Copy of Statement of Need and Reasonableness.

5. Copy of Findings of Fact, Conclusions, and Order Adopting a Rule Without a Public Hearing;

6. Certificate of the MRC Resolution Adopting the Rule;

7. Declaration of Counsel;

8. Copy of the one letter received regarding the rules, and the MRC's response to that letter;

9. A copy of the Notice of Proposed Adoption of a Rule Without a

Public Hearing;

10. A copy of the Certificate of Commission's Authorizing Resolution.

11. A copy of the State Register in which the proposed rules were published.

Would you please review and approve these rules on behalf of the Attorney General, and notify me in writing when such approval is granted. The MRC will then arrange to have the Notice of Adoption published in the State Register.

If you have any questions, please give me a call.

Sincerely,

Sharon A. Beighley

SHARON A BEIGHLEY
Office Manager

SB/
encls.

MINNESOTA RACING COMMISSION

CERTIFICATE OF COMMISSION'S AUTHORIZING RESOLUTION

I, Richard Pemberton, hereby certify that I am the Chair of the Minnesota Racing Commission, a Commission duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a Resolution adopted at a meeting of the Minnesota Racing Commission duly and properly called and held on the 19th day of December, 1991, that a quorum was present, and that a majority of those present voted for the Resolution which has not been rescinded or modified.

RESOLVED, that Richard Krueger, Director of Pari-Mutuel Racing, is hereby granted the authority and directed to sign and to give the notice of the Commission's proposed adoption of a rule without a public hearing governing the regulation of furosemide medication to all persons who have registered their names with the Commission for that purpose and to publish the notice and rule in the State Register, and perform any and all acts incidental thereto.

In the event a public hearing becomes necessary, the Director is hereby granted the authority and directed to call a hearing for the purpose of promulgating said rules, as well as perform any and all acts incidental thereto, including but not limited to, signing an order for hearing and notice of hearing as well as act as the Commission's representative to the hearing.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 19th day of December, 1991.

RICHARD PEMBERTON
MINNESOTA RACING COMMISSION

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Horse Medication

AGENCY: Minnesota Racing Commission

MINNESOTA RULES: Chapters 7890, 7892

The attached rules are approved for publication in the State Register

Paul M. Marinac
Assistant Deputy Revisor

Minnesota Racing Commission

Proposed Permanent Rules Relating to Horse Medication

Rules as Proposed

7890.0100 DEFINITIONS.

[For text of subps 1 to 12, see M.R.]

Subp. 13. **Medication.** "Medication" is a substance, compound, or element, or combination thereof, which is or can be administered to a horse for the purpose of preventing, curing, or alleviating the effects of any disease, condition, ailment, or infirmity, or symptom thereof, or for altering in any way the behavior, attitude, temperament, or performance of a horse, including athletic performance. The term medication includes all analgesics, anesthetics, depressants, narcotics, stimulants, tranquilizers, and other classifications of medications. Nothing herein shall be deemed to include:

[For text of item A, see M.R.]

B. Lasix®, provided, however, that ~~if~~ it is administered pursuant to the provisions of part 7890.0140, subpart 6 7a, and further provided that the test sample does not contain:

(1) more than 80 nanograms per milliliter of plasma furosemide;

(2) less than 40 milligrams creatinine per 100 milliliters urine; and

(3) urine furosemide, measured in micrograms per milliliter, in a quantity such that the ratio of urine furosemide to urine creatinine exceeds 0.15.

[For text of items C and D, see M.R.]

[For text of subp 14, see M.R.]

Subp. 15. **Positive test.** "Positive test" means the detection of any medication or metabolites thereof in a test sample or a test level of Bute or Lasix® above the allowed level.

[For text of subp 16, see M.R.]

Approved by Revisor PMM

Subp. 17. **Test level.** "Test level" means the concentration of Bute or Lasix® found in a test sample.

[For text of subps 18 to 21, see M.R.]

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Subpart 1. **Prima facie evidence.** A finding by a chemist of any medication, substance foreign to the natural horse, or Bute or Lasix® exceeding the allowable test ~~level~~ levels provided in part 7890.0100, subpart 13, ~~item~~ items A and B, in the test sample of a horse shall be considered prima facie evidence that the medication, substance, or Bute or Lasix® was administered to the horse and carried in the body of the horse while participating in a race.

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[For text of subps 1 to 5, see M.R.]

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Approved by Revisor _____

employed by the owner or trainer of the horse. The Lasix® must be administered at least four hours before scheduled post time for any ~~horse~~ bleeder entered to race and the dose level of Lasix® must be at least 150 milligrams and must not exceed 250 milligrams (no less than three nor more than five milliliters of a 50 milligram/milliliter or five percent solution) per administration.

The practicing veterinarian must deposit with the commission veterinarian ~~at the Lasix® detention barn~~ an unopened supply of Lasix® and sterile hypodermic needles and syringes to be used for the administration. ~~The horse must be brought to the Lasix® detention barn for treatment not less than four hours before scheduled post time for the race in which it is entered to start.~~ The Lasix® must be administered under the supervision of a person employed by the commission. ~~Once at the Lasix® detention barn, a horse shall remain there until it is taken to the paddock to be saddled or harnessed for a race.~~

Subp. 10. **Responsibility of trainer.** ~~While in the detention barn~~ The trainer is responsible for ensuring that the horse is available at the appropriate time for its treatment. At the time of treatment, the trainer must provide to the commission employee observing the treatment a statement signed by the trainer or assistant trainer that indicates the barn number and stall number where the horse will be detained following treatment and the names of all employees permitted by the trainer to be in contact with the horse during that time. The statements shall be on a form prescribed by the commission. After having been administered Lasix®, the horse shall at all times be in the care, custody, and under the ~~control~~ visual supervision of the trainer or a licensed person assigned by the trainer. The horse must remain in its own stall until it is taken to the paddock to be saddled or harnessed for a race. It shall not be handled by anyone other than the trainer, the owner, or the employees listed on the trainer's signed statement. If emergency veterinary attention becomes necessary, the trainer is responsible for immediately notifying the

Approved
by Revisor _____

commission veterinarian of the nature of the need and of the identity of the responding veterinarian. The trainer shall be responsible for the guarding, condition, care, and handling of the horse ~~while it remains in the security area~~ at all times.

7890.0150 DISCLOSURE OF APPROVED MEDICATIONS TO PUBLIC.

The names of all horses that have been approved for race day use of Bute or Lasix® must be identified in the daily racing program. The names of all horses that have been treated with Bute shall be posted on the public information boards in the grandstand by the association by one hour before post time of the first race on the day such horses are to race. Horses that are racing for the first time using Lasix®, must be so identified in the daily racing program.

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7892.0120 TAKING OF SAMPLES.

Subpart 1. Horses tested.

Approved
by Revisor _____

[For text of item A, see M.R.]

B. Blood and/or urine test samples may be taken from randomly selected horses during each racing program, from horses designated by the stewards or the commission veterinarian at any time upon suspicion that a violation of chapter 7890 has occurred, or for testing the quantitative ~~level~~ levels of furosemide in the plasma or urine and the level of urine creatinine of treated horses.

[For text of items C and D, see M.R.]

[For text of subps 2 to 6, see M.R.]

Approved by Revisor _____

STATE OF MINNESOTA

MINNESOTA RACING COMMISSION

IN THE MATTER OF THE
PROPOSED ADOPTION OF THE
MINNESOTA RACING COMMISSION
RULE GOVERNING FUROSEMIDE MEDICATION

NOTICE OF PROPOSED
ADOPTION OF A RULE
WITHOUT A PUBLIC HEARING

(1) Notice is hereby given that the Minnesota Racing Commission proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in Minnesota Statutes, Sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes, Section 240.23 -.24 (1990 and 1991 Supp.)

(2) All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. (3) Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. (4) If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request. (6) Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. (7) If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

(5) Comments or written requests for a public hearing must be submitted to:

Richard Krueger
Minnesota Racing Commission
7825 Washington Avenue South
Suite 800
Bloomington, Minnesota 55439
Telephone: (612) 341-7555

(8) The proposed rule may be modified if the modifications are supported by data and views and do not result in a substantial change in the proposed rule as noticed.

(11) A copy of the proposed rule is attached to this notice.

(12) A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from the Minnesota Racing Commission upon request.

(13) (14) Promulgation of the proposed rules will not result in the expenditure of public monies by local public bodies, fix or adjust any fees, or have an impact on agricultural land. The effect, if any, that the proposed rule may have on small businesses is discussed in the Statement of Need and Reasonableness.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission (9) to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to the Minnesota Racing Commission at the address listed above.

DATED: December 19, 1991

RICHARD G. KRUEGER
DIRECTOR OF PARI-MUTUEL RACING
MINNESOTA RACING COMMISSION

STATE OF MINNESOTA
MINNESOTA RACING COMMISSION

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE MINNESOTA RACING COMMISSION GOVERNING FUROSEMIDE MEDICATION

AFFIDAVIT OF MAILING THE NOTICE OF PROPOSED ADOPTION OF RULE AND CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

I, RICHARD KRUEGER, BEING FIRST DULY SWORN DEPOSES AND SAYS:

I HEREBY CERTIFY THAT THE LIST OF PERSONS AND ASSOCIATIONS WHO HAVE REQUESTED, PURSUANT TO MINNESOTA STATUTES, SECTIONS 14.14, SUBDIVISION 1A. AND 14.22 OR 14.30, THAT THEIR NAMES BE PLACED ON THE MINNESOTA RACING COMMISSION'S RULEMAKING LIST IS ACCURATE, COMPLETE AND CURRENT AS OF THIS 10TH DAY OF JANUARY, 1992.

THAT ON THE 10TH DAY OF JANUARY, 1992 AT THE CITY OF BLOOMINGTON, COUNTY OF HENNEPIN, STATE OF MINNESOTA, I MAILED THE ATTACHED NOTICE OF PROPOSED ADOPTION OF RULE BY DEPOSITING IN THE UNITED STATES MAIL, A COPY THEREOF WITH POSTAGE PREPAID, TO ALL PERSONS AND ASSOCIATIONS ON THE AFOREMENTIONED MAILING LIST.

MINNESOTA RACING COMMISSION

Subscribed and Sworn to Before me
This 10th Day of January, 1992.

NOTARY PUBLIC

SHARON A. BEIGHLEY
NOTARY PUBLIC – MINNESOTA
HENNEPIN COUNTY
My Commission Expires Oct. 23, 1995

BOX 99
CHALLIS, ID 83226

AMERICAN HORSE RACING FEDERATION
JAMES P. HEFFERNAN
1700 K ST. NW SUITE 300
WASHINGTON,, DC 20006

AQHA RACING DEPT.
DOUG RAY
P.O. BOX 200
AMARILLO, TX 79168

ABABIAN JOCKEY CLUB
SHAREI GUETSCHOW, DIR. OF RACING
12000 ZUNI STREET
WESTMINSTER, CO 80234

ASSN FOR ADV OF SPORTS POTENTIAL
EQUINE DIVISION
185 DOE RUN ROAD
UNIONVILLE, PA 19375

ASSOCIATION OF RACING COMMISSIONERS
KENTUCKY HORSE PARK
4067 IRON WORKS PIKE
LEXINGTON, KY 40511

AUTOTOTE LTD
MARY JANOWSKI
100 BELLEVUE RD BOX 6009
NEWARK, DE 19714

BACKSTRETCH MAGAZINE
19899 W. NINE MILE ROAD
SOUTHFIELD, MI 48075

RON BANKS
JOCKEY'S GUILD, INC.
12809 N. 15TH AVE.
PHOENIX, AZ 85029

LORETTA BEAUDOIN
1322 STIKNEY AVE.
S. ST. PAUL, MN 55075

STEVE BELTON
150 S. 5TH ST #2300
MPLS, MN 55402

WENDY BENSON
2112 MEETING ST.
WAYZATA, MN 55391

JERRY BLATZ
7900 XERXES AVE. S. SUITE 960
BLOOMINGTON, MN 55431

JOHN BROEKER
104 PEAVEY ROAD
CHASKA, MN 55318

KEVIN CONARD
P.O. BOX 3003
STILLWATER, MN 55082

CAROL CONNOLLY
504 SELBY AVENUE
ST. PAUL, MN 55102

BURT DAHLBERG
523 S. 8TH ST
MPLS, MN 55404

PETER DAHLEN
NATIONAL PRACTICE INST
330 2ND AVE. S. #770
MPLS, MN 55401

DAILY RACING FORM
JOHN MCEVOY, EDITOR
1301 ELSTON AVE.
CHICAGO, IL 60622

Daily Racing Form
Fred Grossman, Editor
10 Lake Drive
Hightstown, NJ 08520

DAILY RACING FORM
DON FLEMING
170 S. BIMINI PL.
LOS ANGELES, CA 90004

ROBERT L. DECKER
CFO, LADBROKE RACING CORP.
28001 SCHOOLCRAFT ROAD
LIVONIA, MI 48150

JIM DRUCK
3200 PIPER TOWER
MINNEAPOLIS, MN 55402

GARY FRAKES
P.O. BOX 126
LUVERNE, MN 56156

DONALD FRAZIER
STATE STEWARD
CANTERBURY DOWNS
SHAKOPEE, MN 55379

CLYDE FUEHRER
MN HBPA
CANTERBURY DOWNS P.O. BOX 508
SHAKOPEE, MN 55379

GAMBLING ENFORCEMENT
TOM BROWNELL
1600 UNIVERSITY AVE. #205
ST. PAUL, MN 55104

MARLYS GOEBEL
7010 KEATS AVE. S.
COTTAGE GROVE, MN 55016

CLAYTON GRAY
MN HBPA
CANTERBURY DOWNS BOX 508
SHAKOPEE, MN 55379

DAN GUSTAFSON
2932 JERSEY AVE. N.
MPLS, MN 55427

CATHY HAHNE
2000 PIPER JAFFRAY TOWER
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Minnesota Racing Commission

Proposed Permanent Rules Relating to Horse Medication

Notice of Proposed Adoption of a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Racing Commission proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in *Minnesota Statutes*, Sections 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes*, Section 240.23-.24 (1990 and 1991 Supp.)

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Richard Krueger
Minnesota Racing Commission
7825 Washington Avenue South
Suite 800
Bloomington, Minnesota 55439
Telephone: (612) 341-7555

The proposed rule may be modified if the modifications are supported by data and views and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from the Minnesota Racing Commission upon request.

Promulgation of the proposed rules will not result in the expenditure of public monies by local public bodies, fix or adjust any fees, or have an impact on agricultural land. The effect, if any, that the proposed rule may have on small businesses is discussed in the Statement of Need and Reasonableness.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to the Minnesota Racing Commission at the address listed above.

Dated: 19 December 1991

Richard G. Krueger
Director of Pari-Mutuel Racing
Minnesota Racing Commission

Rules as Proposed

7890.0100 DEFINITIONS.

[For text of subps 1 to 12, see M.R.]

Subp. 13. **Medication.** "Medication" is a substance, compound, or element, or combination thereof, which is or can be administered to a horse for the purpose of preventing, curing, or alleviating the effects of any disease, condition, ailment, or infirmity, or symptom thereof, or for altering in any way the behavior, attitude, temperament, or performance of a horse, including athletic performance. The term medication includes all analgesics, anesthetics, depressants, narcotics, stimulants, tranquilizers, and other classifications of medications. Nothing herein shall be deemed to include:

[For text of item A, see M.R.]

B. Lasix®, provided, however, that ~~if~~ it is administered pursuant to the provisions of part 7890.0140, subpart ~~6~~ 7a, and further provided that the test sample does not contain:

(1) more than 80 nanograms per milliliter of plasma furosemide;

(2) less than 40 milligrams creatinine per 100 milliliters urine; and

(3) urine furosemide, measured in micrograms per milliliter, in a quantity such that the ratio of urine furosemide to urine creatinine exceeds 0.15.

[For text of items C and D, see M.R.]

[For text of subp 14, see M.R.]

Subp. 15. **Positive test.** "Positive test" means the detection of any medication or metabolites thereof in a test sample or a test level of Bute or Lasix® above the allowed level.

[For text of subp 16, see M.R.]

Subp. 17. **Test level.** "Test level" means the concentration of Bute or Lasix® found in a test sample.

[For text of subps 18 to 21, see M.R.]

7890.0130 FINDINGS OF CHEMIST.

Subpart 1. **Prima facie evidence.** A finding by a chemist of any medication, substance foreign to the natural horse, or Bute or Lasix® exceeding the allowable test ~~level~~ levels provided in part 7890.0100, subpart 13, ~~item~~ items A and B, in the test sample of a horse shall be considered prima facie evidence that the medication, substance, ~~or~~ Bute or Lasix® was administered to the horse and carried in the body of the horse while participating in a race.

Subp. 2. **Distributed purse money.** The fact that purse money has been distributed prior to the issuance of the chemist's report shall not be deemed a finding that no medication or Bute or Lasix® exceeding allowable ~~level~~ leveis was administered to the horse earning such purse money in violation of this chapter.

7890.0140 BLEEDERS.

[For text of subps 1 to 5, see M.R.]

Subp. 6. **Lasix® may be ~~administered~~ to permitted for certified bleeders.** Upon request, any horse placed on the bleeder list shall, in its next race, be permitted the use of Lasix®. Once a horse has raced with Lasix®, it must continue to race with Lasix® in all subsequent races unless a request is made to discontinue the use. If the use of Lasix® is discontinued, the horse shall be prohibited from again racing with Lasix® unless it is later observed to be bleeding pursuant to subpart 1 or meets the requirements of subpart 3. Requests for the use of or discontinuance of Lasix® must be made to the commission veterinarian by the horse's trainer or assistant trainer on a form prescribed by the commission on or before the day of entry into the race for which the request is made.

Subp. 7a. **Conditions required for Lasix® administration.** Lasix® shall be administered intravenously by a veterinarian employed by the owner or trainer of the horse. The Lasix® must be administered at least four hours before scheduled post time for any ~~horse~~ bleeder entered to race and the dose level of Lasix® must be at least 150 milligrams and must not exceed 250 milligrams (no less than three nor more than five milliliters of a 50 milligram/milliliter or five percent solution) per administration.

The practicing veterinarian must deposit with the commission veterinarian ~~at the Lasix® detention barn~~ an unopened supply of Lasix® and sterile hypodermic needles and syringes to be used for the administration. ~~The horse must be brought to the Lasix® detention barn for treatment not less than four hours before scheduled post time for the race in which it is entered to start.~~ The Lasix® must be administered under the supervision of a person employed by the commission. ~~Once at the Lasix® detention barn, a horse shall remain there until it is taken to the paddock to be saddled or harnessed for a race.~~

Subp. 10. **Responsibility of trainer.** ~~While in the detention barn~~ The trainer is responsible for ensuring that the horse is available at the appropriate time for its treatment. At the time of treatment, the trainer must provide to the commission employee observing the treatment a statement signed by the trainer or assistant trainer that indicates the barn number and stall number where the horse will be detained following treatment and the names of all employees permitted by the trainer to be in contact with the horse during that time. The statements shall be on a form prescribed by the commission. After having been administered Lasix®, the horse shall at all times be in the care, custody, and under the ~~control~~ visual supervision of the trainer or a licensed person assigned by the trainer.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

The horse must remain in its own stall until it is taken to the paddock to be saddled or harnessed for a race. It shall not be handled by anyone other than the trainer, the owner, or the employees listed on the trainer's signed statement. If emergency veterinary attention becomes necessary, the trainer is responsible for immediately notifying the commission veterinarian of the nature of the need and of the identity of the responding veterinarian. The trainer shall be responsible for the guarding, condition, care, and handling of the horse ~~while it remains in the security area~~ at all times.

7890.0150 DISCLOSURE OF APPROVED MEDICATIONS TO PUBLIC.

The names of all horses that have been approved for race day use of Bute or Lasix® must be identified in the daily racing program. The names of all horses that have been treated with Bute shall be posted on the public information boards in the grandstand by the association by one hour before post time of the first race on the day such horses are to race. Horses that are racing for the first time using Lasix®, must be so identified in the daily racing program.

7890.0160 RESPONSIBILITY OF VETERINARIAN.

No veterinarian may administer a medication or substance foreign to the natural horse to any horse that is scheduled to race within 48 hours, except as permitted in part 7890.0100, subpart 13, or in the case of a medical emergency requiring immediate treatment. No veterinarian may place a nasogastric tube in a horse that is scheduled to race within 48 hours, except in the case of a medical emergency requiring immediate treatment. No veterinarian may enter the stall of or otherwise handle a horse that is scheduled to race within four hours, except in the case of a medical emergency requiring immediate treatment. In emergency cases it is the responsibility of the attending veterinarian to notify the commission veterinarian of the nature of the emergency and the exact treatment provided. The notification must be made as soon as practical (within one-half hour of an emergency that occurs during training or racing hours or by 8:00 a.m. on the morning following an emergency which occurred during evening or night hours) and on a form prescribed by the commission.

7892.0120 TAKING OF SAMPLES.

Subpart 1. **Horses tested.**

[For text of item A, see M.R.]

B. Blood and/or urine test samples may be taken from randomly selected horses during each racing program, from horses designated by the stewards or the commission veterinarian at any time upon suspicion that a violation of chapter 7890 has occurred, or for testing the quantitative ~~level~~ levels of furosemide in the plasma or urine and the level of urine creatinine of treated horses.

[For text of items C and D, see M.R.]

[For text of subps 2 to 6, see M.R.]

Official Notices

Pursuant to the provisions of Minnesota Statutes § 14.10, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Minnesota State Agricultural Society

Minnesota State Fair

Annual Meeting Notice

The 133rd annual meeting of the Minnesota State Agricultural Society, governing body of the State Fair, will be held Jan. 17, 18, 19 and 20 at the St. Paul Radisson Hotel. For complete program information call (612) 642-2251.

Comprehensive Health Association

Notice of Board of Directors Meeting

NOTICE IS HEREBY GIVEN that a meeting of the Minnesota Comprehensive Health Association (MCHA), Board of Directors will be held at 9:00 a.m. on Friday, January 31, 1992 at the Minnesota Center, 7760 France Avenue South, Edina, Minnesota, in the

STATE OF MINNESOTA

MINNESOTA RACING COMMISSION

In the Matter of the Proposed Adoption
of the Minnesota Racing Commission Rule
Relating to the Regulation of
Medication in Race Horses

STATEMENT OF NEED
AND REASONABLENESS

GENERAL

Minn. Statute 240.03 empowers the Minnesota Racing Commission to regulate horse racing in the state to ensure it is conducted in the public interest, to take all necessary steps to ensure the integrity of racing, to issue licenses, to supervise pari-mutuel betting on horse racing and to conduct necessary investigations and inquiries and compel the submission of information, documents and records it deems necessary to carry out its duties.

Minn. Statute 240.23 authorizes the Commission to adopt rules governing any aspect of horse racing or pari-mutuel betting which in the opinion of the Commission affects the integrity of racing or the public health, welfare or safety. Minn. Statute 240.24, subd. 1 (1990 and 1991 supp.), requires the Commission to make and enforce rules governing medication and medical testing for race horses. Subdivision 2 of that section requires the Commission to permit by rule the use of furosemide or other pulmonary hemostatic agents if the agents are administered under the visual supervision of the veterinarian or a designee of the veterinarian employed by the Commission.

The repeated statutory references to "integrity" in pari-mutuel betting and horse racing, and to "the public interest", reflect a legislative intent and public sentiment that the Commission act to ensure that horses entered into pari-mutuel events are fairly represented to the public. The Commission is required to regulate the handling and care of horses and the use of any permitted medications in these horses in such a manner as to guarantee that the natural performing ability of these horses is not enhanced or suppressed by artificial means. See Minn. Statute 240.24 (1990 and 1991 supp.).

The Commission believes that the proposed rule changes are necessary to the integrity of pari-mutuel betting and horse racing in Minnesota, to the public interest and to public safety, health and welfare. The Commission submits that the rule changes are necessary to eliminate a regulatory mechanism which appears to create unnecessary stress in horses treated with the permitted medication furosemide and, thus, potentially alters their performance capabilities in a way which is not predictable by the betting public.

The Commission believes that the proposed rule changes are reasonable because they more closely reflect regulations in effect in other racing jurisdictions than do the rules presently being used in Minnesota. The Commission further states that the proposed rules are based on accepted scientific studies carried out over a period of several years. The rules are reasonable

in that they reduce stress on the horses involved and alleviate an awkward and costly situation for the horsemen involved, yet actually enhance the Commission's ability to enforce the integrity and fairness of the permitted medication program.

FUROSEMIDE MEDICATION

SUMMARY

Minn. Statute 240.24 mandates that the Commission shall make and enforce rules governing medication and medical testing for horses running at licensed racetracks. Chapter 7890 of the Minn. Rules pertains to medication, while Chapter 7892 pertains to medical testing of horses.

Minn. Statute 240.24 permits the use of the medication furosemide. This medication is necessary to control the onset of a condition called exercise-induced pulmonary hemorrhage, wherein horses under conditions of maximal exercise will rupture small blood vessels in the lungs. The use of furosemide in a horse known to experience this condition results in a less erratic, more predictable racing performance. Yet, furosemide is a medication which has the potential, if used improperly, to dilute horse urine to the point where proper medical testing is not possible. For that reason, the requirements and conditions for the use of furosemide have been stringent, in order to permit the proper use but prohibit the abuse of this medication.

In order to prevent tampering with a furosemide-treated horse, Chapter 7890 has required the detention of these horses in a special facility following treatment. Unfortunately, horses undergoing such detention experience variable degrees of stress, nervousness, and excitability as a result of being in a strange environment and in such close proximity to strange horses. Depending upon temperament, this can have a decidedly adverse effect on their racing performance that day, an effect which is not predictable by the betting public.

Through the use of medical testing and research on the blood and urine samples of several thousands of race horses it has been shown that horses, when properly administered furosemide according to the schedule which ensures full and adequate medical testing, will have plasma and urine parameters within certain established levels (see Exhibit A). Thus, post-race quantitative testing methods can now be substituted for pre-race detention to guarantee that improper use of the drug does not occur.

The proposed rule changes to Chapters 7890 and 7892 require the additional medical testing for post-race furosemide levels and remove the requirement for pre-race detention of treated horses in any area other than their own stalls. The rule changes further require the trainer of any such horse to guard and visually monitor the animal from the time of treatment to the time of the race. In addition, they restrict veterinarian access to any horses scheduled to race to only those situations where legitimate medical care is necessary, and they outline the procedures to be followed should such situations occur.

The net effect of the proposed rule changes is to permit the race horses to remain in a

familiar and safe environment on race day while permitting the Commission to continue their strict regulation of the use of medications.

RULE-BY-RULE ANALYSIS

7890.0100. This part provides definitions for terms used in Chapter 7890, Horse Medication.

Subpart 13 defines the term "medication" and, as part of that definition, exempts certain substances from being considered prohibited. These substances include food additives, topical applications, Bute (phenylbutazone), and Lasix (furosemide) under certain circumstances. Item B, which pertains to Lasix (furosemide), is being amended in two ways.

First, the word "if" is deleted by the proposed changes. This word was inadvertently placed in this item apparently due to a typographical error at some point previously in the rulemaking process. The change is necessary, as its inclusion in the present rule renders the rule meaningless.

Second, the proposed rule creates quantitative threshhold levels for plasma and urine furosemide levels as well as for urine creatinine, a measure of urine dilution. The rule requires that body fluid samples taken for medical testing fall within the stated parameters in order for the finding of furosemide in the samples to be considered permitted. The change is necessary in order for the Commission to continue to prevent misuse of the medication while at the same time be able to discontinue the necessity of pre-race detention of horses. The change is reasonable, in that several other racing jurisdictions already employ quantitative methods for furosemide regulation. Furthermore, the Commission already employs quantitative methods for the regulation of Bute, the only other medication permitted to be in horses at the time of a race.

Subpart 15 defines the term "positive test". The proposed change will cause a test level of Lasix (furosemide) above the allowed level to be treated as a positive test finding, as is presently the case with Bute. This change is needed to permit the rules governing medication violations in general to apply to those situations where violations of the quantitative threshhold levels for Lasix have been discovered.

Subpart 17 defines the term "test level" and, as with Subpart 15 above, is changed to include quantitative levels of furosemide within the term.

7890.0130. This part relates to the findings of the racing chemist. The proposed addition of references to Lasix is necessary in order to include an overage of furosemide into the list of substances prohibited in the test samples of horses. The proposed changes are primarily to cause the existing rules on prima facie evidence and on distributed purse money to also be applicable to violations of the proposed Lasix threshhold levels, the same as they presently apply to violations of the Bute threshhold levels.

7890.0140. This part outlines all regulations covering the treatment of "bleeders", as

defined in 7890.0100, subpart 4, with the therapeutic medication furosemide (Lasix).

Subpart 6 permits the administration of Lasix to certified bleeders. The proposed change to the header of this subpart is necessary for clarification of the contents, as the proposed changes would move part of this subpart to a new location (proposed Subp. 7) in this part. Separating out the requirements for obtaining permission to use the medication from the conditions under which the medication must be administered will allow the trainer to more clearly understand what steps he or she must go through in order to properly take care of business in this regard.

Proposed Subpart 7 outlines the specific conditions under which the medication must be administered. Much of the language here consists of the remainder of Subp. 6, as discussed above. Several changes are apparent in this subpart.

The word "bleeder" is substituted for "horse" in order to clarify which horses may be so treated.

A minimum dose of furosemide has been added. This change is necessary to protect the betting public from fraud in the case where so insignificant a dose is used that the therapeutic effect does not occur. The change is reasonable because the owner does not pay for treatment based on quantity administered.

The final changes in this subpart eliminate the need for the horse to go to the Lasix detention barn for treatment and detention. This change is necessary to prevent the problem of nervousness caused in Lasix-treated horses by the unfamiliar environment at the detention barn. The change is reasonable because the observation of treatments by Commission personnel, the quantitative testing following the race, and the requirement of the trainer to guard the horse while in its own stall will be a more effective system for preventing abuse of the program than is the present system.

Subpart 10 addresses the responsibilities of the trainer of any horse which is to race with Lasix. The additional language requires the trainer to provide information as to the proper location of the horse, the identification of employees permitted to be with the horse, and to ensure that the horse is at that location at the required time for treatment. The rule further requires the trainer or his or her representative to maintain visual supervision of the horse for the next four hours, and to notify the Commission's veterinarian if a medical emergency causes a private veterinary practitioner to have to come in contact with the horse. These changes are needed in order to permit the furosemide treatment at the proper time and to make the trainer responsible for guarding the horse from tampering. The changes also are necessary to permit the Commission to easily identify any situations where the trainer has failed to properly guard the horse. The changes are reasonable because the rules presently require such attendance on the horse; the change in location to the horse's own barn instead of the separate detention barn is actually less burdensome to the horsemen.

7890.0150. The change in this part is needed simply to correct a previous change which had created some confusion on the part of the betting public. Horses approved for race-day use

of either permitted medication are presently so noted in the daily racing program. The change is reasonable because it reflects what is done in actual practice at the track.

7890.0160. This part has been added to make very clear what the responsibilities of veterinarians are concerning medications. The language prohibits a veterinarian from administering drugs to horses scheduled to race within 48 hours. It further prohibits a veterinarian from inserting a stomach tube in a horse scheduled to race within 48 hours, and from being in any contact with a horse due to race within 4 hours, other than in the case of a medical emergency. The language requires the attending veterinarian in the case of such medical emergency to notify the Commission's veterinarian within a certain time frame.

The proposed rule is necessary for the Commission to regulate the activities of the practicing veterinarians in a manner which protects the integrity of racing. Presently, the rules only allow for disciplinary action to be taken against the trainer when prohibited substances are detected in a test sample. The veterinarian may be equally culpable, yet the Commission cannot take action unless the trainer is willing to testify against the veterinarian. Since such testimony is in itself an admission of complicity, this simply does not occur. Another important factor is that veterinarians are the only licensees allowed to be in possession of injectible medications and hypodermic equipment, yet the Commission is unable to take action when a veterinarian violates that trust accorded to him or her as a medical professional. Under the present rules, a veterinarian caught in the act of injecting an unknown substance into a horse before a race might end up with no disciplinary action being taken due to the Commission's inability to prove the identity of the substance.

The proposed rule is reasonable. In the case of the horse scheduled to race, no situation other than an emergency should require the veterinarian to administer substances in contravention of part 7890.0100, subpart 13. The rule provides for such medical emergencies.

7892.0120. Subpart 1 of this rule provides for the taking of samples necessary for medical testing. The proposed change in this subpart is needed to allow for the taking of samples to perform quantitative tests as outlined earlier in the analysis of the proposed changes to the definition of Lasix.

OTHER STATUTORY REQUIREMENTS

Minn. Statute 14.115 requires agencies, when proposing a new rule or amending existing rules which may affect small businesses, to consider certain methods for reducing the impact of the rule on small businesses. The proposed rules impact upon small businesses represented by trainers; however, the impact is a positive one in that the proposed rules make it easier for trainers to keep their horses calm prior to races. Factors enumerated have been considered and these rule changes represent a favorable impact.

Minn. Statute 14.11, subd. 2, is inapplicable because the proposed amendments will not have any direct impact upon agricultural land. Sections 115.43, subd. 1, 116.07, subd. 6, and 144A.29, subd. 4 are not applicable. Section 16A.128, subd. 1, does not apply. Likewise, a

fiscal note is not required pursuant to 3.892 as the rule will not force any local agency or school district to incur costs.

CONCLUSION

Based upon the foregoing, the Minnesota Racing Commission's proposed rules governing the regulation of medication are both necessary and reasonable.

RICHARD G. KRUEGER
MINNESOTA RACING COMMISSION

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METABOLISM AND DIURETIC EFFECT OF FUROSEMIDE: DEVELOPMENT OF PROTOCOLS FOR THE REGULATION OF FUROSEMIDE MEDICATION IN HORSES

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METABOLISM AND DIURETIC EFFECT OF FUROSEMIDE: DEVELOPMENT OF PROTOCOLS FOR THE REGULATION OF FUROSEMIDE MEDICATION IN HORSES

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Summary

Furosemide concentration in plasma of a large population of race horses at 2.75–3.25 h (pre-race) and 4.5–5 h (post-race) after administration of known doses of furosemide, and the relationship of plasma or urine furosemide level with urine dilution were determined to devise procedures for the regulation of furosemide medication in race horses. This study indicated that (1) HPLC was more suitable than ELISA or PCFIA in quantitation of furosemide in plasma and urine, (2) > 90% of pre-race or post-race plasma samples had furosemide level < 30 ng/ml, (3) > 90% of the post-race urine sample had furosemide level ranging from 2 μg/ml to 20 μg/ml, (4) the horses which excreted dilute urine (creatinine value < 40 mg/100 ml) were the horses whose plasma furosemide levels were > 80 ng/ml, and (5) the urine (furosemide/creatinine) ratio was an important indicator of urine dilution due to furosemide medication in race horses. Furosemide use can be regulated by comparing plasma furosemide level with a pre-race "cut-off" value of 100 ng/ml or a post-race "cut-off" value of 80 ng/ml, and by determining urine creatinine and urine (furosemide/creatinine) ratio. Furosemide level > the "cut-off" value, urine creatinine level < 40 mg/100 ml, and urine (furosemide/creatinine) ratio > 0.15 should be considered violative and administrative action should be taken if all the criterion are met. An alternative "urine dilution" method for furosemide regulation has also been proposed in this study.

Key words: Furosemide; Diuresis; Urine dilution; Horses; Analysis

Introduction

Exercise-induced pulmonary hemorrhage (EIPH) has been demonstrated to occur in 26–75% of racing horses, depending on breed [1]. The effect of

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January 23, 1992

Clyde M. Fuehrer, Executive Secretary
Minnesota Horsemen's Benevolent and Protective Association, Inc.
Post Office Box 508
Shakopee, Minnesota 55379

Dear Clyde:

In reference to your letter of January 20 pertaining to a suggested change in the wording of the proposed rules for Lasix, we checked with Special Assistant Attorney General Joe Newton. He advised us that the addition of the word "and" per your suggestion would not be necessary and would, in fact, cause a significant delay in the adoption of the rule. He assured me that the present wording does require that all three tests are failed before a violation would be called.

I should also point out, though, that your letter suggests that all three tests would have to be failed before a *warning* would be issued. This assumption is incorrect. I intend to issue warnings for any case where any one or two of the tests are failed. Cases where all three of the tests are failed would be turned over to the Stewards for their action.

I hope this letter helps to clarify how these tests will be handled.

Sincerely,

Camille

Camille J. McArdle, DVM
Veterinary Director

cc: Richard Krueger, MRC Executive Director

Horsemen's Benevolent & Protective Association, Inc.

MINNESOTA DIVISION

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MN RACING COMMISSION
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January 20, 1992

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Richard Krueger
Director of Pari-Mutuel Racing
Minnesota Racing Commission
7825 Washington Ave. S., Suite 800
Bloomington, Mn 55439

Dear Mr. Krueger:

This letter is in regard to the proposed permanent rules relating to horse medication as published in the Monday 13 January 1992 State Register. The rule in question is:

7890.0100 DEFINITIONS.

B. Lasix, provided, however, that ~~if~~ it is administered pursuant to the provisions of part 7890.0140, subpart ~~6~~ 7a, and further provided that the test sample does not contain:

(1) more than 80 nanograms per milliliter of plasma furosemide;

(2) less than 40 milligrams creatinine per 100 milliliters urine; and

(3) urine furosemide, measured in micrograms per milliliter, in a quantity such that the ratio of urine furosemide to urine creatinine exceeds 0.15.

This office is of the understanding that, according to Dr. McArdle, all three of the above tests would have to be failed before any action, either a warning or ruling, would be forthcoming.

To achieve the above intent in the rule, it may be necessary to add the word "and" at the end of (1) to read as follows:

(1) more than 80 nanograms per milliliter of plasma furosemide; and

This office respectfully requests that the above adjustment be made.

Sincerely,

Clyde M. Fuehrer

Clyde M. Fuehrer
Executive Secretary
Minnesota HBPA

CERTIFICATE OF THE
MINNESOTA RACING COMMISSION
RESOLUTION ADOPTING THE RULE

I, RICHARD PEMBERTON, do hereby certify that I am a member and the Chair of the Minnesota Racing Commission, a Commission duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Minnesota Racing Commission, duly and properly called and held on the 28th day of February, 1992, that a quorum was present, and that a majority of those present voted for the resolution which has not been rescinded or modified.

> "RESOLVED, that the rule governing horse medication is approved and adopted, pursuant to authority vested in the Minnesota Racing Commission by Minnesota Statutes 240.23, 240.24 (1990 and 1991 Supp.).
>
> Richard Krueger, Director of Pari-mutuel Racing, is authorized to sign the findings of fact, conclusions and order adopting the rule and further is authorized to modify the rule if necessary to obtain approval of the rule by the Attorney General and to perform the necessary acts to provide that the rule shall have the force and effect of law."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 28th day of February, 1992.

RICHARD PEMBERTON

N.ai2

STATE OF MINNESOTA

MINNESOTA RACING COMMISSION

In the Matter of the Proposed Adoption of the Rule of the Minnesota Racing Commission Governing Horse Medication.

FINDINGS OF FACT, CONCLUSIONS AND ORDER ADOPTING RULE WITHOUT PUBLIC HEARING

The above-entitled matter came on for decision before the Minnesota Racing Commission on the 28th day of February, 1992. After according all interested persons the opportunity to present written and oral data, statements and arguments to the Minnesota Racing Commission, and in accordance with statutory requirements regarding the adoption of non-controversial rules, after considering all the evidence adduced upon the records, files and proceedings herein, the Minnesota Racing Commission, being fully advised of the premises, hereby adopts the following Findings of Fact, Conclusions and Order:

FINDINGS OF FACT

1. Notice of the Minnesota Racing Commission's intent to adopt a rule governing horse medication without a public hearing, was published in the State Register on January 13, 1992 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statues, sections 14.14, subdivision 1a and 14.22, on January 10, 1992.

2. The statement of need and reasonableness was prepared before the commission authorized publication of the notice of intent to adopt a rule and before the notice was mailed to all persons on the rulemaking mailing list, published in the State Register and made available to the public.

3. All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rulemaking.

4. No requests for a public hearing on the rule were received by the agency during the comment period.

5. No requests for notice of submission to the Attorney General were received by the agency.

6. One comment on the rule was received by the agency and was considered by the Minnesota Racing Commission.

7. The Minnesota Racing Commission adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the proposed rules. The Minnesota Racing Commission incorporates the Statement of Need and Reasonableness into these findings.

8. The above-captioned rule is needed and reasonable.

CONCLUSION

1. The Minnesota Racing Commission duly acquired and has jurisdiction over this proceeding.

2. The Minnesota Racing Commission published and served, due, timely and adequate Notice of the Intent to Adopt the Rules Without a Public Hearing.

3. All relevant legal and procedural requirements of statute and rule have been complied with.

ORDER

NOW, THEREFORE, IT IS ORDERED, that the rule identified as governing horse medication is adopted this 28th day of February, 1992, pursuant to authority vested in the Minnesota Racing Commission by Minnesota Statutes, section 240.23 and 240.24 (1990 and 1991 Supp.).

RICHARD KREUGER
Minnesota Racing Commission

STATE OF MINNESOTA
MINNESOTA RACING COMMISSION

In the Matter of the Adoption
of the Rule of the Minnesota
Racing Commission Governing
Horse Medication.

DECLARATION OF COUNSEL

I, E. JOSEPH NEWTON, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is 0733.

E. JOSEPH NEWTON
Special Assistant
Attorney General

Dated: February 28, 1992.

N.ail