



Medication Summit Review

By Guy Lamothe

TOC unveiled a new panel format for the 2007 California Racing Medication & Security Summit on July 28 in Del Mar. Over 80 owners, trainers, veterinarians, track representatives, and regulators gathered to hear three panels of experts discuss three very important and timely issues at the top of TOC's agenda: veterinary medical records, medication rules and penalties, and the future of racing with respect to current breeding and training practices.

PANEL I VETERINARY MEDICAL RECORDS: TRANSPARENCY AND AVAILABILITY

Moderators

Madeline Auerbach, Thoroughbred Owners of California
Ed Halpern, California Thoroughbred Trainers

Panelists

Rick Arthur, DVM, Equine Medical Director, CHRB
Jeff Blea, DVM, Racetrack Practitioner
Andy Havens, Havens Bloodstock Agency, Inc.
Leigh Ann Howard, California Thoroughbred Breeders Association
Steve Schwartz, Attorney, Wallace & Schwartz, American Veterinary Medical Association

TOC is exploring the potential benefits and implications of increasing the transferability of equine medical records by having the records follow the horse throughout its career. The panel immediately addressed a key question: "Who owns the records?" Steve Schwartz cited the California Code of Regulations (§2032.3), and Dr. Rick Arthur provided a clarification – the veterinarian owns the records, but the owner is entitled to a summary, which includes:

A history or pertinent information pertaining to the horse's medical status;

Data, including that obtained by instrumentation, from the physical examination;

Treatment and intended treatment plan; and,

All medications and treatments prescribed and dispensed, including strength, dosage, quantity, and frequency.

According to Dr. Jeff Blea, veterinarians will generally provide a summary to a new owner of a horse upon consent of the prior owner. However, he contends that vets must be mindful of privacy rights and breaching client/patient confidentiality. Both TOC and several of the panelists questioned the confidentiality concerns, as horses are not "patients" for such purposes, nor is a horse's owner. The latter is the client to whom such confidentiality rights are not analogous.

A quick straw poll of the audience revealed that most favored a system requiring records transfer from owner to owner. However, some expressed concern about a potential increase in the frequency that a current owner might opt to sue former owners/trainers/vets based in some fashion on past veterinary practices if a horse did not perform up to expectations.

Shifting the discussion to auction sales, moderator Madeline Auerbach raised the issue of sellers' responsibility to disclose records to the buyer. Panelist Andy Havens, a noted bloodstock agent, explained that sales companies go to great lengths to protect the buyer, including a detailed list of requirements in the conditions of sale. However, a seller's responsibility to gather all the information is made more difficult without access to a database system. Dr. Arthur, who is working on an initiative to develop a database of medical records, pointed out that one of the significant benefits of a database would be the ability to scientifically research and develop a correlation between medications/treatments and horse injuries. Key concepts that must be addressed in database development include determining where to draw the line on disclosure, balancing health and legal concerns, what information is material for the health of the horse, and how to standardize data interpretation and input among hundreds of vet practitioners.

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**PANEL II
CURRENT CALIFORNIA
MEDICATION RULES & PENALTIES**

Moderators

Marsha Naify, Chair, Thoroughbred Owners of California
James Cassidy, Trainer

Panelists

Rick Arthur, DVM, Equine Medical Director, CHRB
Don Barney, Security, Hollywood Park
Kevin Dods, Horseland Security Co.
Richard Shapiro, Chairman, California Horse Racing Board
Scott Stanley, PhD, Maddy Equine Laboratory, UC Davis

TOC strives to ensure the integrity of California racing through strict medication and testing guidelines, as well as state-of-the-art track security. Marsha Naify commended the California racing industry's efforts this year to adopt the Racing Medication & Testing Consortium's ("RMTC") penalty guidelines. In fact, California is the only major racing jurisdiction in the nation to accept practically all of the RMTC's guidelines. The guidelines are in the final stages of review by the Office of Administrative Law and should be implemented by year end.

With the panel discussion turning to problems inherent in the adjudication process, Richard Shapiro outlined the process as it typically cycles through to a final decision by the CHRB. Interestingly, most hearings do not come before the Board of Stewards, as respondents generally elect to have their case heard by an Administrative Law Judge (ALJ) in the Office of Administrative Hearings (OAH). From a regulatory standpoint, the downside is that such hearings generally take many months to complete. The ALJ, who may know very little about racing, provides a recommendation to the CHRB, which may either accept or reject it. According to Mr. Shapiro, often the penalty recommendation is quite inconsistent with the nature of the infraction. If the CHRB rejects it, then the CHRB must rehear the case, using the Attorney General's office, which becomes extremely expensive.

Legislation (AB 1616) was introduced this year to restructure and expedite the adjudication process by extracting the OAH and offering the respondent either a hearing before a Board of Stewards or a hearing officer specifically pre-qualified in horse racing laws and rules. (See Legislative Update, page 16.)

The panel also tackled the subject of anabolic steroid use. According to Dr. Arthur, horse racing is considered the best example among all professional sports in the area of drug testing, with the obvious exception of anabolic steroids. U.S. Congressman Ed Whitfield (KY) has authored a bill to ban all anabolic steroids, which could come as early as 2008. Research is being undertaken to determine natural levels and an effective blood test at 30-60 day withdrawal times, and it is also expected that the industry could see major sales companies testing by next year.

**PANEL III
FUTURE OF RACING: BREEDING & TRAINING**

Moderators

Alex Waldrop, CEO, National Thoroughbred Racing Association
Drew J. Couto, President, Thoroughbred Owners of California

Panelists

Rollin W. Baugh, Bloodstock Agent
John Harris, Harris Farms
Matt Iuliano, The Jockey Club
Tim Connor, DVM, Del Mar Track Veterinarian, CHRB
Richard Mandella, Trainer
Ray Paulick, The BloodHorse
Scoop Vessels, California Thoroughbred Breeders Association

Track stable security was the third topic addressed by the panel. Don Barney, co-author of California's Graded Stakes Security and Event Personnel Policies, briefed attendees on the rigorous procedures employed on track. California might be the only state that has established Graded Stakes Security Policies, and there is likely no other state that matches our security and technology standards. Kevin Dods provided a private industry perspective, commenting

Panelists Matt Iuliano, Richard Mandella, Leigh Ann Howard, "Scoop" Vessels, Rollin Baugh, and Andy Havens.



Moderators Madeline Auerbach and Ed Halpern.

that individual trainers are employing wireless cameras in their stalls, adding to existing usage in detention barns, track money rooms, etc. The opportunity exists to expand wireless camera coverage to all stalls in the future, perhaps with moderately priced off-the-shelf systems.

Like many others, TOC is concerned with the myriad of factors that possibly contribute to the long term weakening of the breed, and sought the opinions of this esteemed panel to encourage creative thinking and solutions.

Rollin Baugh offered a historical synopsis of the development of the breed. As he saw it, in the 1950's racing was largely an "owner/breeder" sport/business, with an emphasis on breeders managing their stock, through the systematic culling of perceived weaker horses. In the 1960's, the emphasis shifted to the marketability of broodmares, including the purchasing of successful mares off of the racetrack. By the 1970's, heavy commercialization of the breed was beginning. Since that time, further commercialization has occurred, putting the emphasis squarely on the breeding of horses to sell at auction, not to race. In his opinion, one serious and troubling result of commercialization has been a greater number of weaker horses remaining in the gene pool, which appears to be evidenced by declining averages in the number of starts per year and in total starts by horses since just the 1970's.

Other factors cited by the panel as contributing to the weakening of the breed included genetics, training methods, increased medications, lack of time off, and the "claiming game." Richard Mandella identified what he saw as another fundamental change in the breed from 30 years ago: racetracks now function as the

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training/lay-up farms of yesteryear; with farmland values continuing to rise, the number of suitable facilities/farms has declined. As a result, he believes that the industry has seen a rise in the frequency of breathing problems, which now affect one in every five horses.

Today's racing economics were also identified as contributing to the weakening of the breed, with buyers/new owners looking for "finished product" to race now. From an investment standpoint, it has

become increasingly more risky to buy or develop a young horse – waiting two years to get to the track, with no assurance of winning – than to claim a ready made racehorse. Matters are seemingly made worse by the lack of a select yearling market in California. Nevertheless, many on the panel suggested that buyers can reverse this trend by taking advantage of the plethora of breeding and performance information readily available.

Finally, the panel discussed the general proliferation of medications and medical procedures. Some expressed the belief that medications are masking true stallion performance, especially the over-use of corticosteroids. To underscore the trend, Ray Paulick noted that cosmetic surgery on legs is on the rise (about one in three horses in Kentucky), yet disclosure is not required.

A step in the right direction, many panelists agreed, would be to develop a uniform national medication policy, with the NTRA and RMTTC taking stronger roles in the development of a national policy.

TOC wishes to thank all participants and attendees to this annual event. The vital information gained will be utilized to develop TOC's medication, security, and integrity strategies in the months ahead.