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THE
STRONACH
GROUP

November 24, 2021

Horseracing Integrity and Safety Authority
Attn: Hank Zeitlin, Executive Director
401 West Main St
Suite 222
Lexington, KY 40507

Dear Mr. Zeitlin:

The Breeders' Cup, Churchill Downs Incorporated, Del Mar Racetrack, Keeneland Association, Inc., the New York Racing Association, and The Stronach Group submit these comments in response to the November 17, 2021, draft of the Horseracing Integrity and Safety (HISA) regulations entitled Definitions, Anti-Doping and Medication Control Protocol, the Prohibited List, and Racetrack Safety. These comments represent a consensus among each of these industry-leading stakeholders.

General Comments:

In addition to the specific section by section comments in this letter, there are a few overarching concerns we would like to bring to the Authority's attention. First it is our collective belief that the existing Association of Racing Commissioner's International (ARCI) regulations were to serve as a template for these regulations. The documents provided bear little resemblance to the rules that were painstakingly developed by the industry and account for the unique circumstances that arise in horse racing. There are several major regulatory considerations upon which the existing draft rules are largely silent. To be clear, we are not asking for blanket adoption of these

rules. Rather, we would encourage you to use the existing ARCI rules as a guide and strengthen them where appropriate.

Second, there has been much effort expended in drafting an anti-doping protocol. While we have some concerns about individual sections within this protocol which will be addressed later, our greater concern is the absence of defined therapeutic medication control regulations. As you know, most medication issues in Thoroughbred racing surround the inappropriate use of or mistakes regarding administration of therapeutic medications. In every racing jurisdiction around the world, there are allowances for the use of therapeutic medication within training and in proximity to racing. Many of these therapeutic medications are crucial to ensure humane care for horses. For example, sedation can be preferable over other forms of restraint for shoeing, wound treatment, and other procedures. Overly restricting use of certain therapeutic medications will result in a decline in horse welfare. Moreover, we found the analysis of the anti-doping section challenging when, in our opinion, much of the context of the protocol depends upon how therapeutic medications are addressed.

The third general comment on the rules deals largely with the Racetrack Safety protocols. The undersigned are in strong position to be able to meet these protocols (and in many cases already have more stringent requirements). Most racetracks will not be able to meet the July 1, 2022, deadline. In some cases, this is due to the overall cost of implementing all the protocols at once, in other cases, this may be due to the lack of trained personnel to fill positions required by the regulations. We would ask the Authority to consider whether a stepwise implementation of the regulations with increasing requirements. This approach would better serve the interest of horses as more racetracks would be able to meet these incremental goals and opt-in to these regulations.

Section Analysis:

The following is an analysis of each section of the document. In addition to some general comments about each section, we will provide specific comments on individual subdivisions.

Definitions

The definition section should more closely reflect the definitions in the ARCI model rules or the enabling statute where present. Quite simply, we are dealing with thousands of licensees that are accustomed to specific terms of art that have been used for decades. Regardless of who is regulating horseracing, changing the language used by a handful of regulators is likely to be more successful than changing the language of thousands – many of whom do not have the educational background of the regulators. Additionally, many of these definitions are cumbersome and difficult to parse – even for the lawyers, physicians, and veterinarians who contributed to this letter.

To begin, several definitions are missing from this section including:

- Racetrack Superintendent
- Layoff
- Gelding
- Retired Horse/Retirement

- Passport
- Passport Finding
- Crop
- Therapeutic Substance
- Assistant Trainer
- Investigator/Investigation
- Scratch
- Screening Limit
- Clerk of Scales
- Outrider
- Many other racetrack official positions

Below are comments on specific definitions:

- Administration – this should also include therapeutic medications
- Anti-Doping Stewards Panel – it is unclear what is meant by impartial stewards. All stewards should be impartial.
- Association and Attending Veterinarian – these definitions should further explain the roles and duties of these veterinarians.
- Bled – this term could be confused with the act of taking blood for testing.
- Breeder – this definition is unclear.
- Commission – using this to define the Federal Trade Commission could be confusing particularly when discussing the state racing commissions. FTC may be a better term.
- Concussion – Does not always refer to a temporary loss of normal brain function.
- Contaminated product – refers to products other than contaminated feed or water. It is unclear why contaminated feed or water is excluded.
- Cooperate – should not be defined as a failure to properly or truthfully act.
- Covered Horse – by defining covered horse in section (1) as from the time the horse has its first work enters training may be problematic. There are treatments that could occur prior to becoming a covered horse (e.g., bisphosphonate administration or genetic manipulation) that may not be discoverable through reasonable due diligence of a purchaser but may exclude the horse from ever racing later in life.

Additionally, under section (4) of this definition the horse is a covered horse when nominated for a covered horserace. Horses are nominated as foals for Breeders' Cup races, for example. If this is the intent, why should only some horses be eligible for testing as foals and others not until they have a timed work? This should be clarified.

- Covered Horserace – this definition is unclear.
- Covered Persons – Racetracks are not engaged in the care, training, or racing of Covered Horses. Racetracks provide the venue for racing but have no direct control over Covered Horses – only control over access to the racetrack. Additionally, there are many individuals licensed by racing commissions that have no direct control over covered horses. If it is the intent of the Authority to include these groups, the definition is overly limited and should include Breed Registries, Horsemen's Groups, and others.

- Decision Limit – therapeutics should be considered in this definition.
- Equine Constituencies – Racetracks and the State Racing Commissions are not involved in the care, training, or racing of Covered Horses. If the Authority wishes to include them, this list is overly restricted and should include groups such as The Jockey Club, the Thoroughbred Owners and Breeders’ Association, etc.
- Groom – this appears to be a catchall definition but does not consider the role of others involved in horse care such as exercise riders, hotwalker, lay dentists, etc.
- Jockey – should have a definition of driver for jurisdictions that opt into these rules for other breeds.
- Official Veterinarian – this responsibility as defined may fall to an Association Veterinarian. Additionally, the responsibility does not begin the minute the horse steps onto the track nor end the moment the horse steps off the track. Generally, all the veterinary definitions need more consideration as they do not reflect the reality of racing.
- Person – we are unclear on the meaning of this.
- Primary Method/Primary Substance – these should have definitions. This organization makes comprehension of the document incredibly difficult.
- Race Period – In certain races, local rules require the period begins more than 48 hours prior to the race. The phrase “unless race conditions dictate an earlier period” should be incorporated.
- Safety Officer – This seems identical to a “Safety Steward” in which case, it is unclear why the language needs to be changed.
- Special Event – this definition is unclear. TOBA doesn’t seem to fit this definition as it isn’t an “event.” It might be better to specify Triple Crown races, graded stakes races, etc.
- Stakes Race – this definition is complex and does not reflect the way many stakes are designated. We would prefer the following: Any race designated as a Graded Stake by the TOBA American Graded Stakes Committee or the IFHA and any overnight, black type or listed stake so designated by the Racetrack.
- Treatment – this should also include procedures (e.g., surgeries, PEMF, chiropractic/acupuncture, etc.).
- Threshold Substance – includes a reference to ratio and scores – it is unclear what these mean in the context of a threshold.
- Use – this is more appropriately defined as administration or exposure; use implies decision making on the horse’s part.
- Whereabouts definitions (all) – each of these definitions need refinement. They are clearer if discussed in terms of location instead of whereabouts. Additionally, there are many practical hurdles to this which will require extensive recordkeeping nationwide that are accessible at each facility.

Anti-Doping and Medication Control Protocol

As noted above, one of our major concerns regarding this section is the failure to address the use of therapeutic medications. While alluding to the regulation of therapeutic medications the rules as written would appear to prohibit the use of any medication in racing and training. This is a

welfare issue and would result in the United States becoming the only country where therapeutic medications are not allowed in training or in proximity to racing. Moreover, simply limiting therapeutic medication to the “minimum necessary to address the diagnosed health concerns” will prove problematic.

The IFHA, ARF, and EHSLC each have screening levels for permitted therapeutic medications in racing. These are based upon governmentally approved medications in each region as well as decisions made by the local regulators. To be clear, even in IFHA signatory countries, there are often additional medications allowed in proximity to racing and in training that are not covered by IFHA screening limits. The choice of whether a medication is included on the IFHA screening limit list is based upon the consensus of the need for a medication across the globe – and many of the current IFHA substances are not approved for use in the horse by the US Food and Drug Administration. Accordingly, we would urge the Authority to review the existing ARCI therapeutic medication thresholds which were primarily established through research performed by the Racing Medication and Testing Consortium and cover approved medications in the United States.

Additionally, many of the concepts supporting the rules are unclear – for example the rationale for different treatment of prohibited, primary, and secondary substances and methods is not well defined. Moreover, it is unclear how the liability provisions will work together. For example, does a section 10.5 finding of no fault override the strict liability requirements on the Responsible person and how will that interact with the knowledge requirements for a Covered Person in Section 2.15(c)?

The following are comments on specific sections:

- 2.15 (a) requires “Covered Persons” to ensure medication administration is limited to address “diagnosed health concerns”. The definition of “Covered Persons” is far too broad for this purpose. Many of those listed as Covered Persons (including the Racetrack) have little or no authority over day-to-day decisions regarding the horse. The only point at which the Racetrack has decision making power regarding medication is in an emergency and the last thing the Association Veterinarian should be considering is whether the administration of emergency life-saving drugs will put them in violation of a regulation if someone disagrees with their medical judgment. Moreover, when considering owners, many are not involved, nor do they have the requisite background to assess whether medication is necessary based upon the diagnosed health concerns.
- 2.4 (a) states that in the event there is no responsible person then strict liability falls to the owner. It is unclear when this would apply. Also, what about situations where it is unclear who was the responsible party when the administration occurred? For example, clenbuterol testing in hair would not allow for a determination of the exact time of clenbuterol administration but could pick up administrations for months during which time the horse could have been claimed.
- 2.4 (b) (3) deals with a Laboratory splitting the A or B sample – this is confusing as it is unclear whether this is the primary laboratory (who should have the A sample) or a split laboratory (who should receive the B sample). There should not be the ability for a

laboratory to act as the split laboratory for itself except in rare instances (e.g., TCO₂ testing).

- 2.4 (d) lists substances with exceptions to reporting requirements based upon thresholds, decision limits, or minimum reporting levels. This should also include substances below screening limits. Also, the term minimum reporting levels is introduced and not defined – but in the general laboratory use would no longer be a minimum reporting level but a threshold. It is inappropriate to turn the minimum reporting level into a threshold. We want laboratories to be able to detect certain substances beyond the minimum reporting level but realize it may take time for some laboratories to go beyond this point.
- 2.4 (f) is confusing considering the horse-based penalties in the Prohibited List. Under this section, a Responsible Person can disclose the use of a Prohibited Substance prior to becoming a Covered Horse and it will not be a violation. In some cases, it is impossible for a Responsible Person to know what happened prior to purchase, transfer, claiming, or auction of a horse that will become a Covered Horse. Bisphosphonates will test for years after administration but inconsistently making it difficult to determine whether the Responsible Person had the ability to disclose the administration. This can be particularly harsh when the horse penalty is a lifetime ban.
- 2.6 (a) appears to contemplate only one type of sample collection in the horse. When considering blood-only sampling, the veterinarians reviewing this document could not recall a single instance where they failed to obtain an adequate blood sample in decades of sampling thousands of horses. If an individual cannot obtain blood on a horse with adequate help, they likely are not qualified to be taking blood samples. Furthermore, additional samples such as urine and hair can be used for screening many substances if for some reason a horse is intractable.
- 4.1-4.4 is unclear on how therapeutic medications fit into the regulatory scheme. The description of Prohibited Substances is unclear and should ultimately reside in the definitions.
- 5.4 (a) requires disclosure to the Authority for use or attempted use of a Prohibited Substance/Method. Many of the reporting requirements in this section are unclear. Treatments administered by the Attending Veterinarian are best reported by the Attending Veterinarian. Whereas treatments administered by the Trainer are best reported by the trainer (e.g., oral medication) with sign off on the prescription/course of treatment by the Attending Veterinarian. Additionally, some consideration should be given to other treatment providers such as lay dentists, PEMF providers, etc. Moreover, the mechanism for reporting these must be in place prior to enacting the regulation. ARCI's model rules provide a model for these reporting responsibilities. (*See*, ARCI 011-010 (D) and 008-020(C)(17)).
- 5.6 (a) requires a “retired horse” to remain out of racing for 6 months once the connections have determined they wish to bring the horse out of retirement. This seems like an incredibly long period of time when in most cases this is related to unsuccessful breeding careers. It may also result in owners not retiring a horse to breed it and bring it back based upon performance in the breeding shed.

- 5.6 (b) requires the owner notify the Agency of retirement where a Covered Horse is serving a period of Ineligibility. How will the Authority enforce these requirements and what will the penalty be for failure to notify the Authority?
- 6.1 refers to samples collected being property of the Agency – is that USADA or HISA?
- 6.1 (f) (1) allows for aliquoting a portion of the A or B sample for confirmation. The term split sample has a very specific meaning and should only be used to refer to the B sample. This is very unclear as drafted.
- 7.1 (b) (1) allows the Agency to communicate a review of potential departure from Laboratory Standards or Testing and Investigation Standards to the Owner or Responsible Person but does not require such disclosure. This should be mandatory to ensure transparency.
- 7.1 (b) (2) covers notification of a potential Adverse Analytical Finding which notifies the Owner and State Racing Commission. However, in some cases, the purses are held or distributed by the Racetrack or others. If purses are held or returned, this information will no longer be confidential. If purses are not held or returned, there may be some difficulty in getting them back later.
- 7.1 (b) (2) (v) covers testing of the B sample but does not indicate who may choose the second Laboratory. This section should specify that the Owner or Trainer has the right to select the B Sample laboratory.
- 7.1 (b) (6) allows the Authority to charge a Covered Person where the B Sample does not confirm. This should be prohibited. The Authority should be responsible for timely processing of the A Sample and appropriate transmission of the B Sample to ensure no microbial degradation. If the Authority cannot meet these basic requirements, it should not be given a second bite at the apple in the form of a general violation. For substances (such as TCO₂) that are extremely time-sensitive, automatic shipment and processing of the B Sample should be accounted for by the Authority.
- 7.5 (b) provides for waiver of rights for untimely challenge by the Covered Person to a anti-doping/medication control violation. This should specify the means for sufficient delivery/notification.
- 8.2 (a) discussed the procedure for a Minor Infraction. This precludes the right to a hearing. A formal hearing should be an option for any infraction. Often Covered Persons in this industry have limited means, speak English as a second language, and limited access to attorneys. The only ability they have is a hearing where they can provide testimony regarding the alleged infraction.
- 9.1 indicates that any anti-doping or medication control rule violation constitutes a disqualification. This result is harsh when considering an accidental administration of omeprazole on race day will result in a disqualification. Additionally, with no therapeutic medication screening limits in place, this seems draconian.
- 10.11 references a 5-year and 10-year window for multiple minor and major infractions. This is unclear and should specify that the timeline is continuously shifting to always look back 5-10 years.

- 10.11 (a)(1)(ii) describes an alternative penalty for a 2-3 major infraction. This is incredibly confusing to a lay person and needs to be clarified.
- 10.11 (a) describes penalties for 2-3 major violations. Violations 2 and 3 have little increased penalty and then there is a significant jump to up to a lifetime ban.
- 10.11 (b) describes penalties for multiple minor violations. Violations 2 and 3 should have some increased penalty versus the first minor violations. Additionally, violation 4 penalties are extremely punitive. This is particularly true when considering a trainer making hundreds of starts per year. The Authority should consider whether there should be a per start minor violation penalty increase instead of a flat number.
- 10.12 (a)(1) prohibits a horse declared ineligible from participating in any activity at a racetrack and requiring it to be removed from the racetrack in 72 hours. Not allowing a horse to train in any manner is a welfare issue. This should be limited to a prohibition on official works and racing. Moreover, in some cases, removal of the horse within 72 hours is impractical.
- 10.12 (a) (2) prohibits an individual who is ineligible or provisionally suspended from participating in any activity at a racetrack. This is a welfare issue for horses as it may require rapid dispersal of race strings (in some cases extremely significant numbers of horses). Unless there is a horse endangerment/abuse issue, the trainer should be allowed to train horses but not enter to race when provisionally suspended. Additionally, the rule should allow a reasonable amount of time to transfer horses either to an assistant trainer or another barn.
- 10.9 (a) mandates that all results from any races from the time of a race in which the horse is disqualified for a medication or prohibited substance violation until it is provisionally suspended or declared ineligible be forfeit. If the Authority wishes to enact this type of rule, the horse should be provisionally suspended immediately, or the Authority should be responsible for unwinding what could be tantamount to months of results – which is particularly complex as some horses race as many as 3-4 times in a month. Moreover, this will affect grooms and jockeys – not just owners and trainers.
- Section 10.6 (a) 3 and 10.6(b)2 are the exact same
- 10.6 (b) (2) (ii) allows for a decreased period of ineligibility where no fault is found. This includes up to a one-year period of ineligibility. This is a harsh result considering the absence of fault.
- 11.3 states that the FTC has the final appeal authority. It is unclear whether this restriction will pass constitutional muster in light of the property interest a licensee has in their occupational license.
- 12.1(a)(1)(i) provides for the minimum information to be contained on an anti-doping violation notice. This should also include Microchip/DOB/or registration number.
- 16.2 defines Responsible Person' Responsibilities and should include reporting a first-time gelding.
- 16.2 (b) describes requirements regarding treatment records. In addition to the recommendations in reference to section 5.4 above, these records should be transferrable to new connections for claims and private purchases as well as Association

Veterinarians. Additionally, an electronic records provider should be specified for secure storage of these records.

- 16.2 (n) lists responsible persons supervisory responsibilities. There may be a typo (assistance versus assistants) and it is unclear what or who a “keeper” is for the purposes of the regulation.
- 16.3 outlines the Veterinarians responsibilities. It is unclear if this is directed towards the Attending Veterinarian as some of these sections would be inapplicable to other veterinarians. Additionally, this should include sections regarding recordkeeping of surgeries, wellness treatments, hyperbaric treatment, and acupuncture.

Prohibited List

The existing ARCI out of competition prohibited list was adapted for horseracing from the WADA code. This should be the basis for this section. Moreover, certain categories of substances are absent from this list (e.g., HIF stabilizers). Also, cobalt should be controlled by a threshold and not a permitted daily dose. Specific section-based recommendations are as follows:

- 20.1(b)(1)(lx) testosterone should have a permitted amount in intact males as well as geldings and fillies. There should also be consideration for pregnant mares.
- 20.1(b)(2) clenbuterol should be regulated as it is under current California Regulation with the additional restriction of a maximum of 2-3 30-day administrations occurring in any 1-year period.
- Medroxyprogesterone Acetate should be added to the prohibited substance list.
- 20.1(d)(1)(x) Salbutamol is referred to as Albuterol in the United States.
- 20.1 (e) (5) (i) does the prohibition on use of thyroxine include both isomers?
- 20.1(g)(2) It should be clear that toxoid vaccines are not considered toxin derivatives that are prohibited pursuant to this rule.
- 21.3 (d) (10)-(14) and 21.3(d)(2)-(9) should not be allowed to be administered on race day. Race day should be defined as the 24-hour period prior to racing.
- 21.4 the furosemide prohibition exception should extend to raceday for those races exempted by the enabling legislation.
- 22.0 restricts use of any substance in Workouts to furosemide. This is a significant overreach that is not present in the IFHA regulations. There is a medical basis for restricting certain substances (e.g., Intra-articular injections, opioid analgesics, local anesthetics, and non-steroidal anti-inflammatories) but there is no medical basis for restricting other therapeutic medications.
- 23.2 (a) (1) prohibits all intra-articular injections for the fourteen (14) calendar days preceding Race Day. This includes PRP, IRAP, Hyaluronic Acids and other substances that cannot be tested for. Additionally, the Authority should consider whether fetlock corticosteroid injections should be limited within 30 days of racing.

- 24.1 to 24.9 covers the term of ineligibility of a horse that receives various substances. Many of these seem irrational and unrelated to either culpability or effect. For example, giving 0 days for cocaine but 6 months for a feed contamination of zilpaterol is illogical. Moreover, a lifetime ban for bisphosphonates would be punitive to a subsequent owner/trainer that claimed a horse treated with bisphosphonates.

Another, preferable option would be for the Authority to adopt the ARCI prohibited list and out of competition testing Annexes. These recommendations were developed by the RMTC Scientific Advisory Committee whose members have hundreds of years of equine regulatory, veterinary, and analytic chemistry experience.

Racetrack Safety

Generally, the Racetrack Safety section of the document reads like a guide – not a regulation. Much of the information contained in the document is best limited to a training or policy guidance manual. Moreover, there is generally a dearth of information regarding jockey health. There should be a Human Health/Medical Committee to create the regulations for jockeys which should include, at a minimum a requirement for a Medical Director or equivalent to collect information such as injury information, jockey physicals, concussion evaluations, and return to ride evaluations.

Furthermore, several inconsistencies exist among the defined terms such as relevant authority and the various responsibilities of veterinarians be they Regulatory, Official, or Association Veterinarians.

Regarding the individual sections, we have the following comments:

- 25.1 should also require that the Equine Medical Director be a licensed veterinarian in good standing.
- 25.2 should include a requirement that the EMD should be responsible for maintaining biosecurity controls at the Racetrack.
- 25.2 (d) as written allows an Association Veterinarian EMD to oversee the Regulatory Veterinarians. Adding, as appropriate may be a good solution here.
- 25.2 (f) requires the EMD to maintain and review SOPs for the track. This should be limited to SOPs related to equine health and safety.
- 25.2 (i) should be eliminated. The EMD should not be involved with reporting human injuries.
- 26.1 add the phrase where present prior to Association Veterinarian and remove the human health protocols to create a new Human Health/Medical Committee to oversee the items such as return to ride management, concussion, and injury reporting. The Medical Committee should have a board-certified physician and emergency medical providers as members. They can also develop protocols for reporting safety concerns from Jockeys and Exercise Riders.

- 26.2 (d) (1) requires reports by the Safety and Welfare Committee be submitted to the Authority. These reports should be submitted on a calendar basis – not based upon race meet as some race meets are very short and tracks have multiple meets. Alternatively other tracks have few race meets but year-round training. This is likely better done on a quarterly basis where racing and/or training occurs.
- 27.1 and 28.1 should include a physician to address human safety issues and education.
- 27.2 and 28.2 discuss funding of various initiatives however, it does not require a specific minimum commitment or indicate who should be responsible for funding the initiative.
- 29.1 requires “reasonable steps” to ensure care and nutrition for racehorses – this is better accomplished through educational initiatives. Same with the individual health requirements. As read, these are too broad to be effective.
- 30.0 – There are several positions missing in the racetrack positions section including: placing judge, horse ID, and racetrack superintendent. This list should be more comprehensive.
- 30.2 each of the regulations only provides the Stewards authority over others to the extent that they are enforcing these rules.
- 30.2 (f) (1) and (4) specifies the requirements for first time starters, horses with layoffs (should cover any breaks over 60 days), and those working off the Stewards List. Horses should not be required to work 5F at every track. At a minimum, there should be a requirement for 4F works which can be expanded to 5F in specific cases. Also, what consideration is there for 2-year-olds who generally work 3/8 before their first start.
- 30.2(f)(2) horses placed on the list for poor performance should likely be placed on the Official Veterinarian’s List instead.
- 30.3 (a) requires racetracks with Graded Stakes to have a Safety Officer. Every track should have a safety officer –it is important to monitor safety for all horses – not just Graded Stakes horses. This person should be able to delegate some of the enumerated responsibilities. Additionally, careful consideration should be given to the reporting structure for this position.
- 30.3 (b) lists the duties of the safety officer. The numbering of this section is off. Additionally, the Safety Officer should conduct whereabouts compliance and monitor gap procedures. Also, this entire section should have the word random removed from it. The Safety Officer should have the right to check any of these items based upon intelligence or pattern as well as randomly.
- 30.3 (b)(14) Veterinary truck inspections should only be done in conjunction with a licensed veterinarian with a DEA license.
- 30.3 (b)(16) overseeing fire safety is beyond the scope of the Safety Officer. They should ensure compliance with fire safety plans developed by professionals.
- 30.3 (b) (8) safety equipment inspected should include crops.
- 30.4 provides the Regulatory Veterinarian the absolute authority to scratch a horse but also requires that the Regulatory Veterinarian recommend scratches to the Stewards. This is inconsistent. This may become more problematic when Association Veterinarians are acting as the on-track veterinarian.

- 30.4 (b) the powers of the Association Veterinarian should be broadened to except only the detention barn as in some jurisdictions they are responsible for every other function.
- 30.4 (c) the number of the Regulatory Veterinarian section is off. Additionally, where Association Veterinarians are used, their independence is key – specific language should be included prohibiting them from reporting to racing management.
- 30.4 (a) (2) the Regulatory Veterinarians should be licensed to practice in the respective jurisdiction.
- 30.4 (c)(11) If there is no Regulatory Veterinarian on site, the Association Veterinarian should have the authority over Attending Veterinarians. Also, the use of Attending licensed Veterinarians should be eliminated in lieu of the term Attending Veterinarian.
- 30.4 (c)(4) – the Regulatory Veterinarian (or Association Veterinarian) does not leave the track once the horses leave the gate. They should always remain on the track or in the paddock when horses are present on the track.
- 30.4 (f) (1) Requires the Trainer apply 48 hours in advance for permission to work a horse. This may be challenging to enforce – particularly at smaller tracks and in certain instances can result in trainers submitting every horse every day to work.
- 30.4 (f) should also require monitored training by Association or Regulatory Veterinarians required to observe horses on the track with the rider up.
- 30.4 (f) (2) requires the trainer and attending vet to examine the horse and submit a statement that the horse is fit to perform a work. This is not practical, especially for trainers with large strings in multiple locations. A veterinary examination within 5 days of a work would be appropriate as is already required in certain California tracks. Additionally, provision should be made for electronic submission of this information.
- 30.4 (g) Much of this section is best left to a training document. All horses should be assessed prior to racing. But specific requirements and mandates on how to perform the exam do not belong in a regulation. Moreover, many of these functions are often performed by an Association Veterinarian and not a Regulatory Veterinarian. Additionally, this section should include a pre-entry examination by the Attending Veterinarian. Finally, we recommend a cap on racing age of 10 which would prohibit any horse 11 years old or older from racing.
- 30.4 (g) (11) Requires horses off more than 365 days be placed on the Veterinarians' List and satisfy the same requirements as unsound horses. In California, these horses are allowed to enter pending return of blood testing results. Additionally, there should be a cap on the amount of time a horse can be out and return to racing – perhaps 30 months?
- 30.4 (g) (12) Requires that horses which have not made a start prior to Feb. 1 of their 4-year-old year be placed on the Veterinarians' List and satisfy the same requirements for removal from the Veterinarians' List as horses designated as “unsound”. In California, we allow these horses to enter pending return of blood testing. Additionally, there should be a cap on first time starters (5 or 6 years of age) and maidens (5 or 6 years of age).
- 30.4 (g) (2) Pre-race veterinary inspection: Every horse entered to participate in an official race shall be subjected to a veterinary inspection by a Regulatory Veterinarian prior to starting in the race for which it is entered on race day not later than two hours

prior to the official post time for the race in which the horse is to compete. > Should this be a longer period?

- 30.4(g)(5) describes the Veterinarian's inspection of the horse – this does not belong in regulation. It is a training document. Moreover, some of the subdivisions (e.g., those requiring auscultation) would be strenuously objected to by many prominent regulatory veterinarians as heart rhythm irregularities are common and often irrelevant in horses. Requiring veterinarians to listen to these – especially in an unfamiliar horse – places an undue burden on them.
- 30.4 (g) (5) (ix) requires the Veterinarian (which one) record the presence of aluminum or bar shoes and inquire regarding nerving of the horse. The Veterinarian performing the pre-race examination should not be responsible for reporting the shoes to the Stewards. Additionally, nerved horses should not be allowed to race. Once the horse is nerved, the horse should become Ineligible.
- 30.4 (h)(1) states that horses placed on the Veterinarians' List are Ineligible to work. These horses should be allowed to work after the initial period of placement on the List. This will range from a few days to after an examination or diagnostics are performed but is based upon the circumstances of the placement on the List. Not allowing these horses to work until they are required to work for the Veterinarian increases their risk of injury.
- 30.4 (h)(2) requires that Trainers and Owners be notified within 72 hours that their horse has been placed on the Veterinarians' List. The Authority should develop an electronic reporting system to accomplish this as often trainers and horses ship in and out prior to the end of the race day. Additionally, this would allow a notice at 24 hours instead of 72.
- 30.4 (h)(3)(i) mandates that horses placed on the Veterinarians' List for unsoundness or lameness, or bleeding at the nostrils to remain on the list for a minimum of 10 days. This should be changed to 14 days minimum.
- 30.4 (h)(4) currently states that horses on the Veterinarians' List are ineligible to perform a timed Workout until released by a Regulatory Veterinarian. This should read approved as release seems to require active decision making on the Regulatory Veterinarians' part whereas in some instances, they are placed on for a set time. Additionally, Association Veterinarians perform these responsibilities in some jurisdictions.
- 30.4 (h)(6)(iv) and (vi) sets the criteria for removal from the Veterinarians' List. This requirement should be based upon a 4F work not a 5F work but allow for jurisdictions or Regulatory Veterinarians to adjust this to a 5F work based upon individual cases. Additionally, if epistaxis was the reason for placement on the Veterinarians' List, should furosemide be allowed for the work? Finally, there should be a requirement for pre-work and post work examinations and post-work drug testing.
- 30.4 (h)(6)(v) horses scratched at the starting gate for non-veterinary reasons should not be under the purview of the Veterinarian but the Starter.
- 30.4 (i) requires racetracks to pay for a "Lead" Veterinarian where the State Racing Commission chooses not to enter into an agreement with the Authority. It is unclear why this is necessary if the Racetrack is also required to hire Association Veterinarians to perform these duties – even in jurisdictions where the only "Regulatory Veterinarian" is present on race day in the Detention Barn.

- 30.5 (c)(1)(i) requires the Attending Veterinarian to make medical judgements for the horse. This should be phrased as medical recommendations – ultimately when more than one course of treatment is appropriate the owner retains the right to make the decision.
- 30.5 (c)(1)(vi) medical judgements should also be rephrased as medical recommendations.
- 30.5 (e) should include Owner or Responsible Person not just Veterinarian and Trainer as being required to ensure compliance with the limitation on medication administrations in horses.
- 30.6 (c) should restrict access of Attending Veterinarians to horses within 48 hours of racing absent EMD approval or emergency. Also, should consider non-veterinarian treatment providers (*e.g.*, PEMF, magnetic blankets, salt chambers, hyperbaric).
- 31.1 should not be limited to horses entering the track but should require all horses entered or stabled on the grounds to have the appropriate vaccinations.
- 31.1 (a) needs to require not only proof of vaccines but date of vaccination.
- 31.1 (a)(3) EHV-1 is short for Equine Herpes Virus 1. Both EHV-1 and EHV-4 are considered rhinopneumonitis according to AAEP. The most common vaccination is an EHV/EIV vaccine. Horses should have the EHV/EIV vaccination a minimum of 14 days prior to shipping into a track but a maximum of 90 days. Horses staying on the grounds should have the vaccine every 120 days at minimum.
- 31.1 (a)(4) – A Coggins test should be current within the last 12 months. Calendar year can be interpreted to be the current year (*e.g.*, 2021) which would make racing on January 1st problematic.
- 31.1 (b) the vaccination and Coggins information should be maintained by the Authority. Based upon this, there should be some electronic reporting system used for this information.
- 31.1 (c) should require horses moving intrastate meet track entry requirements as well as shipping regulation.
- 32.1 (a) requires treatment records be provided but does not specify to whom or how.
- 32.1. (b) requires non-covered Veterinarians (private Veterinarians at private clinics) to report information to the electronic database. The Authority does not have jurisdiction over these persons. Moreover, there is no specified database for reporting injuries and who is responsible for such reporting and the penalties for failure to report are not provided.
- 32.1 (b)(5) should be eliminated as it is covered in other sections.
- 32.1 (b) (8) treatment restrictions should also include hyperbaric chambers, salt chambers, PEMF, magnetic blankets, etc. These types of treatments should also be subject to a 48 hour stand down period.
- 32.2 (b) these types of records are better required under the Anti-Doping section. Additionally, any dosage administered should be required to be in milligrams or grams not by volume.
- 32.2 (c) this section should also reference lay dentistry.

- 32.2 (a) the Association Veterinarians should also have access to treatment and medical records if they are making decisions on racing soundness, etc.
- 33.1 there should be a defined mechanism for records transfer (method and timing) and a defined penalty for failure to transfer records.
- 33.2 should require that all claimed horses be tested post-race.
- 33.2 (b) (3) claims should be voided for horses vanned off the track for soundness of wind or musculoskeletal reasons not precautionary reasons (e.g., heat exhaustion).
- 33.2 (c) currently reads as any horse can be exempt from a void claim. This should be limited to unsound horses or those that have bled.
- 33.4 (a) the claim price ratio should be eliminated from the regulations. With the increased veterinary scrutiny and limitation on claims, the importance of this restriction has diminished. If a price ratio is determined to be important, the Committee should review current information to set a more appropriate ratio.
- 34.0 all tracks should be required to have a backup/secondary equine ambulance.
- 35.1 requires that paramedics be present in the saddling enclosure. EMT's can perform this function in lieu of paramedics – this should be changed to a “qualified medical provider”.
- 36.1 mandates that any necropsy be performed within 24 hours. This is impractical as many of the state necropsy facilities are not open on weekends. This would lead to an increase in less desirable field necropsies. Instead, it should require transport as soon as practical, and necropsies should be left to the discretion of the facility performing them. One of the members of this group maintains a refrigerated space for storage of horses until the state facility will accept them on business days.
- 37.0 Prohibited Practices should be expanded to include: animal abuse, withholding of food/water for extended periods, slaughter, shin scraping, neurectomy of horses intended to race, and chemical castration. Penalties must be delineated for violation of this section.
- 37.6 Use of electrical medical therapeutic devices should be prohibited within 48 hours of racing.
- 39.0 a provision should be added that limits use of the riding crop for safety purposes only in training.
- 39.2 Riding Crop Specifications should instead mandate that the racetrack provide the approved crops for rider use in racing or list specific allowable brands to avoid knock-off versions that have welfare and safety implications.
- 39.3 Riding Crop Penalties should include fines in addition to suspensions.
- 40.0 under Other Devices, spurs should be prohibited.
- 42.1 Need more specifics on shoes for synthetics – these should be more akin to turf shoes than dirt shoes.
- 43.3 (c) (1) requires gaps to be clearly marked. We believe that gaps should blend in when the rail is closed. The remainder of the section is appropriate.
- 43.3 (c) (2) main gaps should be staffed to control traffic and coordinate with outriders/clockers.

- 43.3 (d)(8) not all jurisdictions currently have an assistant starter in the gate with each horse. This may represent a significant barrier to entry for some jurisdictions as qualified individuals are difficult to find.
- 43.4 (a) the following should be added to this section:
 - At a minimum of twice per year, or before each race meet, testing should verify the integrity of the base, geometry of the track, composition of the surface, and the dynamic response of the surface using biomechanics-based testing methods.
 - The test and design data should be available to the HISA Safety Committee or its designee within one week of testing or the race day. The information provided should be sufficient for analysis of surface related factors known to be associated with risk to the horse and rider.
 - Specific details of testing including methods, frequency and sample locations will be determined through a standard practices document. The standard practices document will be updated annually by the Racetrack Safety Committee with input from representatives of the research community and practitioners representing a range of racetrack operators.
- 43.4 (a)(1)(ii) windrowing a deep cushion track on an annual basis will be financially and physically onerous.
- 43.4 (a)(2)(ii) provides that distance marker poles should have proper distance from the finish line and be located 3 feet from the inside rail. This may not be practical at some locations in many tracks and should be reconsidered.
- 43.4 (a)(2)(v) these standards should apply to all racetrack – not just those with Graded Stakes.
- 43.4 (a)(2)(v)(2) the Going Stick (or similar tool) should be used daily.
- 43.5 (a)(4)(iii) please add “herbicides” and “all other material inputs”.
- 43.5 (a)(4)(iv) this should include language requiring material quality and consistence control via laboratory testing of new material at a rate of once per every 200 tons.
- 44.1 if the Uniform National Trainers Test is to be used, it should be revised.
- 44.2 the Authority needs to create education on HISA rules and understanding how they apply for owners, trainers and officials. Also, this section is mis-numbered.
- 44.2 (b)(11) this will be difficult to manage without a nationwide database of training.
- 44.2 (b)(12) this is not racing related and should be removed.
- 44.2 (b) (6) the owner module will be difficult to enforce/monitor. Additionally, at what point does an owner become responsible for taking this course? Some owners own small amounts of many horses.
- 44.2 (b)(7) this should not include any CE programs without scientific or academic affiliations. Track Superintendents Field Day, for example, lacks external review.
- 44.2 (b)(8) this will be challenging to accomplish.
- 44.2 (b)(9) an outrider safety course and protocol will be difficult to develop and may not be the best use of resources.
- 45.1 (a) this should also include on-track scratch protocols.
- 45.1 (a)(2) and (3) – should read guideline instead of standard of care.

- 45.2 (a) Association veterinarians are often addressing these injuries. Additionally, the AAEP programs should not be referenced as there are too few individuals who have gone through the training. Instead, it should reference media trained individuals.
- 45.3 the term local authority should be replaced with authority having jurisdiction (AHJ). Additionally, the term appropriate NFPA standards is vague and varies by state.
- 45.4 the dangerous weather conditions should also contemplate wind, smoke, air quality, and fog. This and the Lightning protocol in 45.4 (c) are more appropriately addressed in a best practices document. If this remains in the document, the “designated weather watcher” should be allowed to perform other duties during the race day.
- 45.5 (c)(2)(ii) should allow for a professional, qualified meteorologist to mitigate the 30-minute stand-down window based on scientific assessment of storm trajectory and other factors. We recommend that tracks willing to retain such a service be afforded this option. This will be very important for major, televised events such as Triple Crown and Breeders’ Cup.
- 46.0 the entire section should be expanded to include Exercise Riders. Additionally, this should mandate the creation of a Human Health/Medical Committee to draft appropriate standards.
- 46.0 should this section also have information regarding the Scale of Weights for Jockeys?
- 46.1 (a) (1) the Authority should consider whether a vision examination should be included in the physical examination. Additionally, are there any age limitations that should be included?
- 46.2 the Unsafe Riding section should be expanded if it is intended to be the rule for governing running the race. The Committee should develop a unified rule to guide grounds for Disqualification.
- 46.3 (a) the standards for this ambulance should be within the purview of the Human Health/Medical Committee. This should include a provision that if an ambulance is being used to transport an individual, the racetrack may not conduct a race, or allow horses with rider on the racetrack, until the ambulance is replaced.
- 46.3 (b) the return to ride function is outside of the EMS provider’s scope. Consider whether the HeadChek program and Return to Ride used in the Mid-Atlantic would be appropriate. Additionally, reporting health information to the Stewards could be a violation of HIPPA.
- 46.3 (c) following the field during a race should be a local decision, not a mandate. Track conditions, physical attributes, ambulance types, etc. should all factor into the decision to follow.
- 46.4 the section as written may have implications related to HIPPA. This should be reviewed by the Human Health/Medical Committee.
- 46.5 should require that any helmet with impact should be required to be replaced regardless of physical damage.
- 46.6 equipment should include riding crops.
- 46.6 (a) and (b) helmets and vests should be inspected systematically not randomly.

- 46.7 Jockeys and Exercise Riders should be able to be tested randomly, for cause, or based upon intelligence. Additionally, this should likely be expanded to anyone riding or driving on the track.

We appreciate the opportunity to comment on these draft regulations. Please feel free to contact any of us with questions.

Thank you,



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