

Mr. Williams

(SP): --pari-mutuel (SP) wagering and breeding law Section 102 provides that the New York State Gaming Commission shall consist of seven members appointed by the Governor by and with the advice and consent of the Senate.

Four members confirmed by the New York State Senator necessary to afford the Commission an ability to establish quorum and to undertake action. This present meeting of the Commission is now called to order.

This meeting is being conducted in conformity with Governor Andrew M. Cuomo's Executive Order #202.1 which is entitled "Continuing Contemporary Suspension and Modification of Laws Relating to Disaster Emergency." The order suspended portions of the Open Meeting's Law and specifically allows the conduct of meetings by telephone or other similar service.

The Governor's Executive Order and relevant part reads, "Article VII of the Public Officer's Log to the extent necessary to permit any public body to meet, and take such actions authorized by the law without permitting in public in person access to meetings, and authorizing such meetings to be held remotely by conference call or similar service provided that the public has an ability to view or listen to such proceeding, and that such meetings are recorded, and later transcribed."

By Executive Order 202.72, Governor Cuomo extended the authority of Order 202.1 through December 3rd, 2020. Accordingly, this Commission meeting is being conducted in conformance with such allowance and we are recording today's meeting for transcription as required.

Secretary, would you please call the roll?

Secretary: John Crotty?

John Crotty: Present.

Secretary: Peter Moschetti?

Peter
Moschetti: Here.

Secretary: John Poklemba?

John
Poklemba: Here.

Secretary: Barry Sample?

Barry Sample: Here.

Secretary: Jerry Skurnik?

Jerry Skurnik: Here.

Unknown: The Secretary, please have the record reflect that a quorum of qualified members is present thus enabling the transaction of business.

Chairman Sample has requested that Commissioner Moschetti preside over today's meeting. Unless there is an objection, Commissioner Moschetti?

Peter

Moschetti: First matter is consideration of minutes for the meeting of October 19th, 2020. Those minutes have been provided to the members in advance. I'll ask the members if there are any ethical (SP) corrections or amendments?

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

The second matter is rulemaking. New York State racing, pari-mutuel wagering and gaming law Section 104.19 authorizes the Commission to promulgate rules and regulations that it deems necessary to carry out its responsibility.

Therefore, the Commission will from time-to-time promulgate rules and rule amendments pursuant to the State Administrative Procedure Act. And today, we have numerous rules for adoption or proposal. And I would ask that you would please outline the first item.

Mr. Williams: For Commission consideration is adoption of a rulemaking to conform to the requirements in New York Public Officer's Law Section 87.4A which directs state agencies to promulgate rules to prescribe the way the agency will safeguard against any unauthorized access to records containing trade secrets submitted.

The proposal also conforms the time to determine records, access appeals within the agency to the time prescribed by statute, allows the delivery of appeal decisions by electronic mail and adds cross references to statutory requirements.

The Notice of Proposed Rulemaking was published in the August 19th, 2020 State Registrar Meeting. The public comment period for this proposed rulemaking expired on October 19th. No comments were received.

Staff recommends that the Commission adopt this rulemaking.

Peter

Moschetti: Commissioners, any questions on the adoption of the rule regarding an agency rule for the protection of trade secrets submitted to the Gaming Commission?

Unknown: No.

Peter

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

Unknown: So moved.

Peter

Moschetti: Second?

Unknown: Second.

Peter

Moschetti: Any discussion on the motion?

Hearing none, all in favor?

Commission: I. (In unison)

Peter

Moschetti: Any opposed?

The motion carries. Next item?

Mr. Williams: For Commissioner consideration is adoption of a rulemaking to add a feature called Money Dots to the existing Quickdraw game. In the standard Quickdraw game, the patron may choose to play between one and 10 spots or numbers per game. A draw of 20 numbers is made from a field of 80 with players winning prizes depending upon how many of their chosen numbers match the 20 winning numbers drawn.

The Money Dots feature allows a patron to make a \$1 wager and receive a Money Dot ticket containing eight random numbers from 1-80 while this wager's independent of any wager on the base Quickdraw game it runs alongside the base game.

After the 20 winning Quickdraw numbers are revealed, the remaining 60 are assigned a color and corresponding prize value. Following assignment, one randomly selected Money Dots number will be selected and any player whose Money Dots ticket contains the selected Money Dots number wins the corresponding prize amount.

The proposal also includes reorganization of the Quick Draw rule. and other technical, and stylistic revisions. The notice of this proposed rulemaking was published in the September 2nd state registrar meaning the public comment for the proposed rulemaking expired on November 2nd. No comments were received.

Staff recommends that the Commission adopt this rulemaking.

Peter

Moschetti: Commissioner, is there any questions on the adoption of a rule regarding the addition of a feature to the Quickdraw lottery game called Money Dots?

Hearing none, may I have a motion to adopt this rule?

Unknown: So moved. (In unison)

Peter
Moschetti: Second?

Unknown: Second.

Peter
Moschetti: Any discussion on the motion?

Hearing none, all in favor?

Commission: I. (In unison)

Peter
Moschetti: Any opposed?

The motion carries. Next item?

Mr. Williams: For Commission consideration is adoption of an amendment to the Commission rule that sets forth standards for housing maintained on the grounds of certain racetracks. Specifically, the proposal would extend existing regulations governing housing on the grounds of the New York Racing Association, Inc. to all housing at thoroughbred and standard bred racetracks.

This would bring standardization to housing at Buffalo, Finger Lakes, Monticello, Saratoga Harness, Vernon Downs, and Yonkers. Neither Batavia (SP) nor Tioga offer housing. The proposal would provide—among other things—standards for building in residential rooms, sanitary, water, garbage removal and pest control. And it's generally modeled after the New York State Department of Health's Migrant Farmworker Housing Regulations.

The Notice of Proposal Making was published in the September 2nd state registrar meaning the public comment period for the proposal making expired on November 2nd. No comments were received.

Staff recommends that the Commission adopt this rulemaking.

Peter
Moschetti: Any questions on the adoption of a rule regarding back-stretched housing standards at the racetracks?

John: No, I just wanted to commend the Chairman and Commission staff for addressing this issue, and actually going, and doing the existing housing, and making this rule, so that the conditions will be required to meet the standards and alleviating some of the problems that we've had in the past.

Peter
Moschetti: So noted, John. I think we all agree a lot of work went into that. Thank you, Barry and Robin.

Barry Sample: Thank you. Thank you, John, a great deal.

John: The workers are very important.

Peter
Moschetti: May I have a motion to adopt this rule?

Unknown: So moved. (In unison)

Peter
Moschetti: Second?

Unknown: Second.

Peter
Moschetti: Any further discussion on the motion?

Hearing none, all in favor?

Unknown: I. (In unison)

Peter
Moschetti: Any opposed?

The motion carries. On to the next item.

Mr. Williams: For Commission consideration is adoption of the rulemaking to remove certain penal aspects of horses coming off and returning to Lasix administration. As you might recall, certainly tracks have considered carting races wherein a condition will be no horse receives race day Lasix administration.

Present rules allow a horse to be removed from the Lasix administration list, but only allow return after an additional bleeding incident which triggers a mandatory horse layoff. This penal aspect may chill trainers willingness to experiment in running their charge without Lasix.

Accordingly, this proposal would permissively allow a horse to be removed from the Lasix eligible list for the limited purpose of competing in a non-Lasix race and allow the return to the list without incurring any potential mandatory layoff. The notice of

this proposed rulemaking was published in the September 2nd state registrar meaning the public comment period for the proposed rule expired on November 2nd.

One comment was received from Myra (P) which indicated support for adoption. Staff recommends that the Commission adopt this rulemaking.

Peter

Moschetti: Any questions on the adoption of the rule regarding _____[00:10:10] otherwise known as Lasix used in practice?

Hearing none, may I have a motion to adopt this rule?

Unknown: So moved. (In unison)

Peter

Moschetti: Second?

Unknown: Second.

Peter

Moschetti: Any discussion on the motion?

There's none. All in favor?

Unknown: I. (In unison)

Peter

Moschetti: Any opposed?

Hearing none, the motion carries.

Mr. Williams: For Commission consideration is adoption of a rule that would strengthen regulations related to exercise induced pulmonary hemorrhage or EIPH in thoroughbred racing. Under the proposed rule, trainers will be required to maintain a record of serious EIPH episodes which are defined by the universally used 1-4 grading system and epistaxis (SP) which is visible bleeding from the nostrils.

Records created pursuant to the amended rule would be required to be maintained by trainers for four years unless given to a subsequent trainer, or owner, or reported to the Commission. The Commission would establish a reporting system to collect such information from trainers.

For convenience of reporting, a trainer may delegate this reporting duty to their treating veterinarian. In general, the most salient portions of the rule proposal requires that a horse that is experienced a serious EIPH episode must be subjected to another endoscopic examination following their next race or workout and requires trainers to provide such information to subsequent owners, or their agents, or trainers

within 48 hours of a request for information unless the Commission has collected and provided the information such as visible bleeding from the nostrils.

The proposal would also follow the amendment rule required to be maintained—

Peter

Moschetti: We got a little back—there we go.

Mr. Williams: The proposal would also codify the standard practice of excluding a horse that experiences epistaxis for a specific minimum time period. The Notice of Proposed Rulemaking was published in the September 2nd state registrar meaning the public comment period to the proposed rulemaking expired on November 2nd.

One comment was received from Myra. Myra stated that, “While it’s important the objective of the proposed rule, an objective to the proposal is written since they believed the proposal lacked in enforcement mechanism.”

Staff disagreed that the proposal lacks an enforcement mechanism as racing law Section 220.2 and Commission rules 4002.1C, 4002.9A and 4022.12 all authorize appropriate penalties for administrative discretion and the judicatory process.

Staff recommends that the Commission adopt this rulemaking.

Peter

Moschetti: Any questions on the adoption of a rule regarding epistaxis pulmonary hemorrhage protection for thoroughbred horses?

Very good.

Unknown: Hello?

Peter

Moschetti: May I have a motion to adopt this rule?

Unknown: So moved.

Peter

Moschetti: Second?

Unknown: Second.

Peter

Moschetti: Any discussion on the motion?

Unknown: Third.

Peter

Moschetti: Hearing none, but the third, all in favor?

Unknown: I. (In unison)

Peter

Moschetti: Any opposed?

The motion carries.

Mr. Williams: For Commission consideration of the adoption of a new wager for harness racing. The wager to be called the Jackpot Super High Five requires the selection of the first five finishers of a single race in the correct order of finish. The entire pool would be paid to a better with a unique winning ticket if there is only one ticket.

If there's not only one winning ticket, then the net pool would be spit into a major pool and a minor pool. The major pool would be a carryover into the next Jackpot Super High Five pool and the minor pool would be divided upon winning wagers. If there are no winning wagers, both the major pool and the minor pool would be carried over to the next Jackpot Super High Five pool.

The rule would also provide for contingencies in the event that dead heat and races with fewer than five betting interests. The Triple Wager Rule would be renumbered to enhance the organization of the part.

The Notice of Proposed Rulemaking was published in the September 2nd state registrar meaning the public comment period for the proposed rulemaking expired on November 2nd. No comments were received.

Staff recommends the Commission adopts this rulemaking.

Peter

Moschetti: Any questions on this option of a rule regarding Jackpot Super High Five wagers for harness racing?

Hearing none, may I have a motion to adopt this rule?

Unknown: So moved.

Peter

Moschetti: Second?

Unknown: Second.

Peter

Moschetti: Any discussion on the motion?

Hearing none, all in favor?

Unknown: I. (In unison)

Peter

Moschetti: Any opposed?

The motion carries.

Mr. Williams: For Commission consideration is the adoption of a new wager for harness racing. The wager known as a Jackpot or Rainbow wager appeals to betters by giving a larger prize when there is only one winning wager from a pool.

If there are more than one winning ticket, then the major portion of the day's pool is paid out to those who selected six of six winners and the minor pool is added to the carryover. The carryover gets paid out when there is a unique winning ticket, or when there's an intermediate, or final distribution as approved by the Commission which would typically occur at the end of a racing meet.

The Notice of Proposed Rulemaking was published on September 2nd in the state registrar meaning the public comment period expired on November 2nd. No comments were received.

Staff recommends that the Commission adopt this rulemaking.

Peter

Moschetti: Any questions on the adoption of a rule regarding a Pick Six Jackpot wager for harness racing?

Hearing none, may I have a motion to adopt this rule?

Unknown: So moved.

Peter

Moschetti: Second?

Unknown: Second.

Peter

Moschetti: Any discussion on the motion?

Hearing none, all in favor?

Unknown: I. (In unison)

Peter

Moschetti: Any opposed?

The motion carries.

Mr. Williams: For Commissioner consideration is the adoption of a rulemaking that may be fully referenced as Rider Licensing Health and Safety Package. The proposal is designed to strengthen the health and fitness protection and upgrade the licensing requirements for jockeys, apprentice jockeys, exercise riders, and outriders who ride in thoroughbred or steeple chase horses.

Several aspects of licensure are currently applied to riders and will be made explicit including demonstrative familiarity with horse care, and general horsemanship, and not permitting an injured or sick person to return to work without appropriate clearance.

The proposal also creates a rider fitness component that details the kind of medical issues that must be disclosed and subjected to a medical examination and clearance before a rider may be licensed. A key aspect of the rulemaking is to require every rider to document their baseline concussive status, to undergo another sports concussive assessment tool or SCAT examination after any fall from a horse or possible head injury, and to make a permanent record of all SCAT exemptions.

The proposal also creates a mandatory Fitness to Return to Ride Program to require an appropriate medical examination and clearance before a rider may return to riding after a concussion or other significant medical issue. Riders will also be required to carry a medical information card that will help medical providers locate the riders prior medical history and provide appropriate medical care.

Finally, the proposal requires a commission license. Not just one from the National Steeple Chase Association, but Steeple Chase jockeys. Wisely improve health and fitness standards to them, and precludes inexperienced Steeple Chase jockeys from participating in the most competitive and dangerous races with pari-mutuel wagering.

The Notice of Proposed Rulemaking was published in the September 2nd, 2002 state registrar meaning the public comment period for the proposed rulemaking expired on November 2nd. No public comments were received.

Staff recommends that the Commission adopt this rulemaking.

Peter

Moschetti: Any questions on the adoption of a rule regarding medical fitness in thoroughbred horse riders steeple chase jockeys.

Hearing no discussion, may I have a motion to adopt this rule?

Unknown: So moved.

Peter

Moschetti: Second?

Unknown: Second.

Peter

Moschetti: Any discussion on the motion?

Hearing none, all in favor?

Unknown: I. (In unison)

Peter

Moschetti: Any opposed?

The motion carries. Next item?

Mr. Williams: For Commission consideration are adoption of amendments to rules governing the Triple Wager Rule in harness racing. The Triple Wager requires a selection of the first three finishers in a single race in the correct order of finish.

The proposed amendment would reduce the minimum number of entries in a race for which the triple is permitted from 6-5. Other stylists taking clarifying amendments are also proposed for consistency with other rules. The rule would also be renumbered to accommodate the previously approved Jackpot Super High Five Wager.

The Notice of Proposed Rulemaking was published in the September 2nd state registrar meaning the public comment period for the proposed rule expired on November 2nd. No comments were received.

Staff recommends that the Commission adopt this rulemaking.

Peter

Moschetti: Any questions on the adoption of a rule regarding Triple Wager in harness racing?

Hearing none, may I have a motion to adopt this rule?

Unknown: So moved. (In unison)

Peter

Moschetti: Second?

Unknown: Second.

Peter

Moschetti: Any discussion on the motion?

Hearing none, all in favor?

Unknown: I. (In unison)

Peter

Moschetti: Any opposed?

The motion carries.

Mr. Williams: For Commission consideration is adoption of a rule that requires thoroughbred trainers to keep a record of medications administered by the trainer after having been dispensed by veterinarians. Veterinary records available generally contain no record of administration.

This proposal exempts anti-ulcer medications commonly added to tea and other non-injectable drugs rated harmless by the Association of Racing Commissioners International. The proposal would also allow the Commission to require trainers to keep such records in a particular form and to make records available for inspection for a period of six months.

This Notice of Proposed Rulemaking was published in the September 2nd state registrar meaning the public comment period expired on November 2nd. No comments were received.

Staff recommends that the Commission adopt this proposed rulemaking.

Peter

Moschetti: Are there any questions on the adoption of a rule regarding the requiring of a law that drugs administered by thoroughbred horse trainers?

Hearing none, may I have a motion to adopt this rule?

Unknown: So moved.

Unknown: Second.

Unknown: I couldn't _____[00:22:25].

Unknown: Second.

Peter

Moschetti: Any discussion on the motion?

Hearing none, all in favor?

Unknown: I. (In unison)

Peter

Moschetti: Any opposed?

The motion carries. Next item?

Mr. Williams: For Commission consideration is adoption of a rule restricting the administration to thoroughbred horses of non-steroidal anti-inflammatory drugs or NSAIDs such that only one clinical dose may be administered during the week before the horse races.

The proposal would limit the administration to an intravenous treatment and adopt stricter thresholds for the two most commonly used NSAIDs—Lamixin (SP) and Phenylbutazone. As has been recommended by the Racing Medication and Testing Consortium, an adopted is a model rule by the Association of Racing Commissioners International.

The proposal also reduces the list of NSAIDs that could be administered lawfully within one week before horseraces to only three by eliminating the NSAIDs that are not widely used and for which the appropriate laboratory threshold is unclear. Current rules permit the use of two NSAIDs from among a list of six NSAIDs allowed during the week before a horse races if one is not used within 96 hours of the race and the other is administered outside 48 hours.

The Notice of Proposed Rulemaking was proposed in the September 2nd State Registrar meaning the public comment area to the proposed rule expired on November 2nd. No comments were received.

Staff recommends the Commission adopt this rulemaking.

Peter

Moschetti: Any questions on the adoption of a rule regarding restricting NSAID use in a thoroughbred race?

Hearing none, may I have a motion to adopt this rule? Anyone?

Unknown: So moved.

Peter

Moschetti: Second?

Unknown: Second. (In unison)

Peter

Moschetti: Any discussion on the motion?

Hearing none, all in favor?

Unknown: I. (In unison).

Peter

Moschetti: Any opposed?

The motion carries. Next item?

Mr. Williams: For Commission consideration is adoption of a rule that would apply wagering restrictions to certain employees of casino vendor registrants identical to restrictions that apply to employees of the casino. Under state laws and regulations, a casino key employee may not wager to any casino in the state nor may any other casino employee directly involved in the conduct of gaming operations, or who holds a gaming employee registration in the same casino where they are employed, or in any owned, or operated in the employing casino, or an affiliate.

The public comment period expired on November 2nd, 2020. One public comment was received from Rivers Casino & Resort. They opposed the proposal. Rivers raised general concerns about restricting play rating that it's a vendor _____[00:25:35] under the applicable licensing and registration standard.

The employee should be deemed to have the character and financial stability to gamble as a casino patron and argued that the vendor employee involved in gaming operations would have no advantage in the playing of games over other patrons.

Rivers also asserted the potential difficulty with rule application writing that their employees would have difficulty enforcing such a gaming restriction as they would not know who a vendor employee might be. They also raised a concern with enforcement responsibility questioning whether a licensed casino might jeopardize their license if a vendor employee violated the restriction.

Rivers also objected to the concept of appearance of impropriety being used with the Commission's regulatory impact statement arguing that the term is antiquated, and that patrons would not likely ever know that a prohibited employee was playing, and that the concept should not apply to private businesses.

Finally, Rivers asserted that there would be a cost to the rule in so far as restricting a potential patron from playing would mean a casino would forgo gaming revenue. And as a result, the state would lose tax revenue.

The purpose of the proposed rule is to standardize gaming restrictions by treating all persons who perform gaming related roles at a casino similarly whether employed by the casino itself or by a casino vendor. Restricting certain employees from gambling advances the policy of promoting public confidence in the integrity of gaming.

A casino employee gambling and winning at a casino has the potential to diminish public confidence in the fairness of the gaming activity even if in fact, there is no actual advantage to the casino employee who plays.

While we appreciate that each licensed vendor employee has been qualified under the applicable licensing and registration standards, staff notes that the standards are to perform the role of servicing a casino and not standards for participating in gaming.

As to revenue implications, staff does not believe that revenue calculations should drive an integrity related rule. We note that the casinos presently forgo revenue when

they comply with other wagering restrictions such as from underaged patrons, self-excluded persons, involuntarily excluded persons, and their own employees.

Finally, staff believes that enforcement of this rule would be a joint responsibility of the Commission, its licensees and the restricted employees. The restricted employee, and the vendor, and the casino might be culpable for a violation depending on the facts and circumstances of any given violation.

Staff recommends that the Commission adopt this proposed rule.

Peter

Moschetti: Are there any questions on the adoption of a rule regarding restrictions on wagering by key employees to all vendors?

Unknown: No.

Peter

Moschetti: Hearing no discussion, may I have a motion to adopt this rule?

Unknown: So moved.

Peter

Moschetti: Second?

Unknown: Second. (In unison)

Peter

Moschetti: Any discussion on the motion?

Hearing none, all in favor?

Unknown: I. (In unison)

Peter

Moschetti: Any opposed?

The motion carries. Next item?

Mr. Williams: For Commission consideration is adoption of revisions to the Thoroughbred Out of Competition Sample Collection Rule intended to conform our existing rule to the national model rule of the Association of Racing Commissioners International.

In general, the Out of Competition rule protects race integrity by making it possible to collect samples from horses that are engaged in horse racing, but are not entered to race or on the grounds of a licensed racetrack. But samples allow the Commission to detect administration's racehorses of drugs in violation of Commission rules particularly potent doping agents that would increase red blood cells, drugs that mask pain or increase a horse's ability to race beyond its natural limits.

The Notice of Proposed Rulemaking was published in the September 2nd state registrar meaning the public comment period for the opposed rule expired on November 2nd. No public comments were received.

Staff recommends that the Commission adopt this rulemaking.

Peter

Moschetti: Are there any questions on the adoption of a rule regarding the amendment of the Out of Competition testing rule for thoroughbred racing?

Hearing none, may I have a motion to adopt this rule?

Unknown: Motion.

Peter

Moschetti: Second?

Unknown: Second. (In unison)

Peter

Moschetti: Any discussion on the motion?

Hearing none, all in favor?

Unknown: I. (In unison)

Peter

Moschetti: Any opposed?

The motion carries.

Mr. Williams: For Commission consideration is a rulemaking proposal to control the improper use of the bronchial dilator Clenbuterol (SP). Clenbuterol is a Beta 2 antagonist that in the United States is not approved for human use and it's only approved in horses to treat lower airway disease.

Clenbuterol has a secondary motive action, a repartitioning effect that causes the body to build more muscle and reduce the fat content of the body. This effect may last for two months after a treatment is discontinued.

Though it is unclear whether long-term use will improve race performance, the potential to abuse the drug for a performance enhancing effect is undeniable. Staff notes that the World Anti-Doping Agency and the International Olympic Committee have banned its use in human athletes as a performance enhancing drug.

Due to its potential use as a performance enhancing drug, Clenbuterol has been regulated by the Commission. With thoroughbred horses, the Commission allows the

use of Clenbuterol under a therapeutic use exemption. Commission rules provide that a horse may not race for at least 14 days following Clenbuterol administration. This requires a prescription by an attending veterinarian and recommendation in veterinary records.

With standard bred horses, Clenbuterol administration also requires a prescription by an attending veterinarian and recommendation in veterinary records. But its administration is allowed until 96 hours before scheduled post-time of the race in which the treated horse is to compete. This is allowed since harness horses generally race weekly which exposes a horse to drug testing that identifies Clenbuterol administrations within the preceding two weeks through urinalysis and 96 hours of positive testing.

The standard bred rule also provides an exception for horses required to qualify without performance within 30 days or which has not yet raced after qualifying. These horses may not race at all for at least 14 days following an administration of Clenbuterol.

If the harness horse does not race for 30 days, it is subject to the 14 days following Clenbuterol administration prohibition. This rulemaking proposal regarding the acceptable use of Clenbuterol was born from data analyzed by Equine Medical Director Scott Palmer who reviewed out of competition samples from horses trained by individuals indicted by the U.S. government this past March.

Recall that each horse was required to submit a hair sample to be tested for prohibited and impermissible substances prior to the horse being allowed to return to racing. The review for Clenbuterol was administered to a substantial number of these horses without evidence of a medical prescription.

Following Dr. Palmer's presentation of his findings at a meeting attended by more than 60 stakeholder leaders as part of the Mid-Atlantic Strategic Plan to Reduce Equine fatalities, the Mid-Atlantic racing stakeholders unanimously approved the proposal to have jurisdiction to consider implementation of a new Clenbuterol rule designed to significantly reduce its improper use.

Maryland began its rulemaking process on October 22nd and will extend a similar rule to both thoroughbreds and standard breeds. Pennsylvania has indicated it will soon commence regulatory change and it is expected that Delaware, New Jersey and Virginia will also consider the rule proposal.

Less Virginia indicated that they would change their rule through its legislature where the approval is required. This proposed rulemaking will require written regulatory approval before a horse in racing or in training may be treated with a prescribed Clenbuterol.

Required daily submission of the administration of any Clenbuterol treatment result in a treated horse being placed on the veterinarian's list and barring the horse from returning to racing until it tests negative for Clenbuterol in both blood and urine.

Staff recommends that the Commission propose this rulemaking.

Peter

Moschetti: Are there any questions on the proposal for a rule regarding Clenbuterol use revision?

Hearing none, may I have a nose to propose this rule?

Unknown: So moved.

Peter

Moschetti: Second?

Unknown: Second.

Peter

Moschetti: Any discussion on the motion?

Hearing none, all in favor?

Unknown: I. (In unison)

Peter

Moschetti: Any opposed?

The motion carries. Next item?

Mr. Williams: For Commission consideration is a proposed emergency and consensus rulemaking to explicitly enable qualified authorized organizations lawfully conducting charitable gambling to accept if they so choose payment for chance by personal check, credit card or debit card. This change will allow organizations seeking to implement contactless payment to readily do so.

(Background chatter)

Peter

Moschetti: Commissioner, is there any questions on the emergency and consensus proposal or a rule regarding payment methods in charitable gaming?

Hearing none, may I have a motion to propose this emergency and consensus rule?

Unknown: So moved.

Peter

Moschetti: Second?

Unknown: Second.

Peter

Moschetti: Any discussion on the motion?

Hearing none, all in favor?

Unknown: I. (In unison)

Peter

Moschetti: Any opposed?

The motion carries.

Mr. Williams: For Commission consideration is a proposed consensus rulemaking to eliminate the requirement in charitable gaming that a person participating in the management or operation of games of chance be a bonified member of the authorized organization or auxiliary organization for at least one year prior to the organization's license period.

This proposal will harmonize the participation requirement in games of chance with that required for general participation in bingo and will allow for greater participation in such games.

Peter

Moschetti: Any questions on the consensus rulemaking for participation in charitable gaming games of chance?

Hearing none, may I have a motion to propose this rule?

Unknown: So moved.

Peter

Moschetti: Second?

Unknown: Second.

Peter

Moschetti: Any discussion on the motion?

Hearing none, all in favor?

Unknown: I. (In unison)

Peter

Moschetti: Opposed?

(Background chatter)

The motion carries. The next matter is going to be adjudications. Today we have one item for adjudication. And I'll ask Mr. Williams to outline that.

Mr. Williams: Philip Lewis (SP) Harness Racing license was suspended for eight days following a race wherein as a driver he slowed his horse past the quarter mile mark at Saratoga Raceway causing other horses in the race to take off abruptly and break stride all in violation of rules 4117.4I and 4117.4M.

Mr. Lewis disputed this ruling as unjust and requested a hearing. While adjournment by party agreement, a hearing was conducted on September 30th, 2020. The hearing officer found that Mr. Lewis had violated rule 4117.4I, but that mitigating circumstances namely a provisional driver ran his horse too fast in trying to fill a gap necessitated a lesser penalty of three days suspension with the penalty suspension for a period of time not to exceed six months provided Mr. Lewis does not violate any Commission rule.

The Commission considered this matter at a meeting inducted pursuant to a judicial or quasi-judicial proceedings exemption of New York Public Officer's Law Section 108.1.

Peter

Moschetti: The Commission duly deliberated, and considered this matter, and determined on a vote of 5 to nothing to sustain the Hearing Officer's report and recommendation.

Next we have new/old business. First, the old business. When it came to the use of the crop, we had a great deal of discussion about this vying for a considerable amount of time. We are going to ask the staff to draft options for the limitation of the use of the crop during racing, so that we may have further discussion on the matter. And I'm told that can be done fairly soon?

Mr. Williams: Yes.

Peter

Moschetti: Great.

Unknown: And I have a suggestion that we also have Dr. Palmer intimately involved in that process.

Dr. Palmer: Certainly.

Unknown: Thank you.

Peter

Moschetti: New business—racing surfaces. We have reviewed some of the correspondence that the Commissioner received during the last two months and noted that seen among a few pieces—specifically we read that a few Harness Horsemen's organizations raised concerns with the maintenance and conditions via the racing or training surfaces.

In discussion with staff, we found that it appears all concerns have been resolved, but our observations indicate that the Commission's rules do not provide any objective standard for racing surface maintenance or condition. Accordingly, we would like to ask staff to undertake some research and consult with those conditioned or used racing surfaces and consider language for central rule making.

Mr. Williams: We can certainly do that.

Peter

Moschetti: So, that concludes today's published agenda. I want to thank everyone who participated. Do any Commissioners have any items they'd like to present for consideration?

(Background chatter)

John: What's up, Mr. Temporary Chairman?

Peter

Moschetti: Thank you, John. The Commission traditionally has met on the fourth Monday of each month which for December would be the 28th. Given the holidays, if workloads suggest actions are needed, perhaps we should consider a mid-December date. For planning purposes, Terry Buckley will be in contact to consider those various availabilities.

So, anything else, guys?

Hearing no other items for consideration, this meeting of the New York State Gaming Commission is adjourned.

[End of Recording]