

DEPARTMENT OF AGRICULTURE
HARNESS RACING COMMISSION

Statutory Authority: 3 Delaware Code, Section 10005 (3 **Del.C.** §10005)
3 **DE Admin. Code** 501

FINAL

ORDER

Pursuant to 29 **Del.C.** §10118 and 3 **Del.C.** §10005, the Delaware Harness Racing Commission issues this Order adopting proposed amendments to the Commission's Rules. Following notice and a public hearing on May 11, 2010, the Commission makes the following findings and conclusions:

Summary of the Evidence

1. The Commission posted public notice of the proposed amendments to DHRC Rule 5.1.8 in the April 1, 2010 *Register of Regulations* (Volume 13, Issue 10) and for two consecutive weeks in April in *The News Journal* and *Delaware State News*. The Commission proposed to update Rule 5.1.8 in its entirety after Rules Committee review.
2. The Commission received no written comments. The Commission held a public hearing on May 11, 2010, in which no public comments were made.

Findings of Fact and Conclusions

3. The public was given notice and an opportunity to provide the Commission with comments in writing and by testimony at the public hearing on the proposed amendments to the Commission's Rules.
4. After considering the rule changes as proposed, the Commission hereby adopts the rule changes as proposed. The Commission believes that these rule changes will allow the Delaware Harness Racing Commission rules to more accurately reflect current policy and procedures.
5. The effective date of this Order will be ten (10) days from the publication of this Order in the *Register of Regulations* on July 1, 2010.

IT IS SO ORDERED this 8th June, 2010.

Beverly H. Steele, Chairman

Robert (Breezy) Brown, Commissioner

George P. Staats, Commissioner

Larry Talley, Commissioner

Patt Wagner, Commissioner

501 Harness Racing Rules and Regulations

(Break in Continuity of Sections)

5.0 Licensees

5.1 General Provisions

5.1.1 Licenses Required

- 5.1.1.1 A person shall not participate in pari-mutuel racing under the jurisdiction of the Commission without a valid license issued by the Commission. License categories shall include the following and others as may be established by the Commission:
 - 5.1.1.1.1 racing participants and personnel (including owner, authorized agent, trainer, assistant trainer, driver, veterinarian, veterinary assistant, horseshoer and stable employees);
 - 5.1.1.1.2 racing officials (including the judges, racing secretary, paddock judge, horse identifier and equipment checker, clerk of the course official starter, official charter, official timer,

- photo finish technician, patrol judge, program director, State veterinarian and Lasix veterinarian);
- 5.1.1.1.3 persons employed by the association, or employed by a person or concern contracting with or approved by the association or Commission to provide a service or commodity, which requires their presence in a restricted area; and
- 5.1.1.1.4 all Commission employees.
- 5.1.1.2 Persons required to be licensed shall submit a completed application on forms furnished by the Commission and accompanied by the required fee, which shall be determined by the Commission.
- 5.1.1.3 License applicants may be required to furnish to the Commission a set(s) of fingerprints and a recent photograph and may be required to be re-fingerprinted or re-photographed periodically as determined by the Commission.
- 5.1.2 Licensing Reciprocity

The Commission may license persons holding valid permanent (not temporary) licenses issued by Association of Racing Commissioners International (RCI) member racing jurisdictions in North America. The licensee must be in good standing; have cleared a Federal Bureau of Investigation (FBI) or Royal Canadian Mounted Police (RCMP) fingerprint check within the previous 36 months, or such other period as is required by the Commission; file an application and/or affidavit as may be required by the Commission; and pay the required fees prior to participating in racing.

 - 5.1.2.1 The Commission may recognize the issuance of racing licenses from RCI member jurisdictions in North America for purposes of issuance of licenses in this jurisdiction.
 - 5.1.2.2 Only permanent licenses in good standing shall be considered. Temporary or probationary licenses shall not be considered.
 - 5.1.2.3 An applicant must be in good standing in each jurisdiction where they hold or have held a racing license.
 - 5.1.2.4 The applicant must have submitted fingerprints within the past 36 months, or such other period as is required by this jurisdiction, for the purpose of a criminal records check by the FBI or RCMP. The applicant shall provide this jurisdiction with proof of licensure from another RCI member jurisdiction to which fingerprints were submitted.
 - 5.1.2.5 The applicant shall submit the license application form and license fee required by this jurisdiction.
 - 5.1.2.6 Provided the above requirements have been met, this jurisdiction may issue either a license and/or a validation sticker. The validation sticker shall be affixed to either a license issued by this jurisdiction or a valid license issued by another RCI member jurisdiction. This Commission shall determine the period of time that such license shall be valid in Delaware.
 - 5.1.2.7 In the event the licensee is absent from this jurisdiction, and upon payment of the applicable fees, a receipt shall be mailed to the licensee's permanent address. The receipt may then be presented at the Commission office by the licensee so that a Commission representative may affix the proper validation sticker to the racing license badge.
- 5.1.3 Multi-State Licensing Information. In lieu of a license application from this jurisdiction, the Commission shall accept an RCI Multi-State License and Information form.
- 5.1.4 Age Requirement. Applicants for licensing shall be a minimum of 14 years of age unless otherwise specified in these rules. An applicant may be required to submit a certified copy of his birth certificate. Persons under the age of 18 may be required to show evidence of active participation in a certified educational program or have a high school diploma or equivalent.
- 5.1.5 Consent to Investigation. The filing of an application for license shall authorize the Commission to investigate criminal and employment records, to engage in interviews to determine applicant's character and qualifications and to verify information provided by the applicant.
- 5.1.6 Consent to Search and Seizure. By acceptance of a license, a licensee consents to search and inspection by the Commission or its agents and to the seizure of any prohibited medication, drugs,

paraphernalia or devices in accordance with state/provincial and federal law. Any drugs, medication or other materials seized may be forwarded by the Commission to the official chemist for analysis.

- 5.1.7 Licensees' Obligation to Protect Horses. Each person licensed by the Commission shall do all that is reasonable and within his power and scope of duty to guard against and prevent the administration of any drug, medication or other substance, including permissible medication in excess of the maximum allowable level, to any horse entered or to be entered in an official workout or race, as prohibited by these rules.

5.1.8 ~~Substance Abuse/Addiction~~ Controlled Substances

- 5.1.8.1 It is the right and obligation of the Commission to test and establish rules governing substance abuse and controlled substances to preserve the safety and integrity of harness racing.

5.1.8.1.1 All licensees shall be deemed to be exercising the privileges of their license, and to be subject to the requirements of these rules, when engaged in activities that could affect the outcome of a race or diminish the conditions of safety or decorum required in restricted areas.

5.1.8.1.2 As used in this regulation, the terms "controlled substance" and "drug paraphernalia" have the meanings provided in the Uniform Controlled Substance Act, 16 Del.C., Ch. 47.

- 5.1.8.2 It shall be a violation to exercise the privileges granted by a license from this Commission if the licensee:

5.1.8.2.1 Is engaged in the illegal sale or distribution of alcohol or any controlled substance;

5.1.8.2.2 Possesses, without a valid prescription, any controlled substance;

5.1.8.2.3 Is intoxicated or under the influence of alcohol or any controlled substance;

5.1.8.2.4 ~~Is addicted, having been determined to be so by a professional evaluation, to alcohol or other drugs and not engaged in an abstinence-based program of recovery acceptable to the Commission; Has in his or her possession any drug paraphernalia;~~

5.1.8.2.5 ~~Has in his possession within the enclosure any equipment, products or materials of any kind which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled dangerous substance; Refuses to submit to breathalyzer, urine or other alcohol or drug testing when requested by the Presiding Judge or Chief Investigator;~~

5.1.8.2.6 ~~Refuses to submit to urine or drug testing, when notified that such testing is based on a random drug testing procedure, is based on reasonable suspicion that the person is using drugs or alcohol or is based on the licensee's acting as if in an impaired condition; or~~

5.1.8.2.7 ~~Presently has drugs (controlled substances) or alcohol in his or her body. With regard to alcohol, the results of a breathalyzer test showing a reading of more than .05~~ 0.02 ~~percent of alcohol in the blood shall be the criterion for a finding of alcohol present in the body; provided, however, that with respect to licensees under the age of 21, the presence of any measurable level of alcohol in the blood shall constitute a violation. With regard to other controlled substances, presence of the drug in any quantity measured by the testing instrument establishes the presence of the drug for purposes of this paragraph.~~

5.1.8.2.6.1 The breathalyzer shall be maintained and tested to insure accuracy according to the guidelines of the manufacturer.

5.1.8.2.7 Presently has any controlled substance in his or her body. The presence of the drug controlled substance in any quantity measured by the testing instrument establishes the presence of the drug controlled substance for purposes of this paragraph.

- 5.1.8.2.7.1 A licensee is responsible for giving notice (on a Commission approved form) to the Chief Investigator that he or she is using a controlled substance or prescription drug under a valid prescription form a licensed physician. No licensee using a controlled substance or prescription drug will be allowed to participate in racing activities unless the physician has certified (on a Commission approved form) that the use of the controlled substance or prescription drug, when used as prescribed, will not adversely affect the licensee's ability to properly and safely carry out his or her responsibilities.
- 5.1.8.3 ~~At its discretion, the Commission may conduct random or episodic random drug testing, as well as testing based on reasonable suspicion, in order to ensure safety on the racetrack. The Commission may conduct random or episodic alcohol or drug testing, as well as alcohol or drug testing based on reasonable suspicion.~~
- 5.1.8.3.1 No notice need be given as to onset or cessation of alcohol or drug testing.
- 5.1.8.3.2 The testing of a licensee may include a field test.
- 5.1.8.3.2.1 For licensees whose field test results are positive under this regulation, the field test results shall be confirmed by a laboratory acceptable to the Commission, provided that the licensee may be summarily suspended for up to ten days pending the results of the laboratory confirmation test. If the laboratory test confirms the positive field test the licensee may continue to be summarily suspended pending a Commission hearing.
- 5.1.8.4 ~~When conducted, random drug testing shall apply equally to all licensees who are, at the time of the random testing, exercising the privileges of their license in such ways as may affect the outcome of a race or diminish the conditions of safety or decorum required in restricted areas.~~
- 5.1.8.5 ~~No notice need be given as to onset or cessation of random testing.~~
- 5.1.8.6 ~~For licensees who are tested under the provisions in this chapter, and whose urine testing shows the presence of drugs (controlled substances) or alcohol, any field screening test results shall be confirmed by a laboratory acceptable to the Commission which shall include Gas Chromatography/Mass Spectrometry (GC/MS) procedures.~~
- 5.1.8.7 ~~When the sample quantity permits, each test sample may be divided into portions so that one portion may be used for the confirmation procedure and another portion may be utilized to obtain an independent analysis of the urine sample.~~
- 5.1.8.3.2.2 The Commission shall provide for a secure chain of custody for If the sample.
- 5.1.8.9 ~~Assuming that laboratory procedures confirm the field screening test results, all costs for the transportation and testing of the sample, including the costs of the independent analysis of the divided portion of the sample, shall be the financial responsibility of the licensee.~~
- 5.1.8.10 ~~Payment shall be due from the requesting person licensee immediately upon receipt of notice of the costs.~~
- 5.1.8.11 ~~A licensee penalized or restricted pursuant to this chapter shall retain rights of due process with respect to any determination of alleged violations which may adversely affect the right to hold a license.~~
- 5.1.8.12 ~~If there has been a violation, as specified in 5.1.8.2 above, the following procedures will be followed:~~
- 5.1.8.12.1 ~~The Commission or Presiding Judge may, at its or his discretion,~~
- 5.1.8.3.3 The testing of a licensee may also include a laboratory test without a prior field test.
- 5.1.8.3.3.1 ~~[The specimen sample quantity collected should be adequate to~~ When the sample quantity permits, each test sample may] be divided into portions so that one portion may be used for the initial [laboratory test test or confirmation] procedure and another portion may be utilized to obtain an independent [drug] analysis of the [specimen test] sample.

- 5.1.8.3.3.2 All costs for the transportation and testing of an independent analysis of the specimen sample shall be the financial responsibility of the licensee. Payment shall be due from the licensee immediately upon receipt of notice of the costs.
- 5.1.8.3.4 The Commission shall provide for a secure chain of custody for the sample.
- 5.1.8.3.5 The Commission shall have discretion to require alcohol or drug testing at any time for any licensee having a prior violation of Section 5.1.8.2.
- 5.1.8.4 A licensee penalized or restricted pursuant to this chapter shall retain rights of due process with respect to any determination of alleged violations which may adversely affect the right to hold a license.
- 5.1.8.5 If there has been a violation, as specified in Section 5.1.8.2, the licensee shall be subject to the following actions:
- 5.1.8.125.1 The Commission or Presiding Judge may at its or his discretion, order the licensee to obtain a professional assessment to determine whether there is a substantial probability that the licensee is dependent on, or abuses, alcohol or other drugs or the Commission or Presiding Judge may act on the information at hand any controlled substance.
- 5.1.8.125.2 Actions in the case of a first violators violation may include revocation imposition of the license a fine of up to \$1,000 or written warning, suspension of the license for up to six months, and placing the violator on probation for up to 90 days or ordering formal assessment and treatment.
- 5.1.8.125.3 Treatment or assessment, if ordered, must meet Actions in the conditions set forth below.
- 5.1.8.12.4 The license case of a second violation, within two years of the person first violation may be revoked or suspended for a period include imposition of a fine of up to \$2,000 or written warning, suspension of the license for up to one year or a professional assessment of the person may be ordered by the Commission or Presiding Judge.
- 5.1.8.12.5 If, placing the violator on probation and ordering the licensee to enroll in and complete, at the licensees expense, a professional assessment indicates presence of a problem of alcohol or other drug abuse that is not treatable within the reasonably foreseeable future (360 days) the license may be suspended for a period of up to one year recognized, appropriately licensed treatment program.
- 5.1.8.12.6 If a professional assessment indicates presence of a treatable problem of alcohol or other drug abuse or dependence, the Commission or Presiding Judge may order the licensee to undergo treatment as a condition of continuing licensure. Such treatment will be through a program or by a practitioner, acceptable to the licensee and the Commission or Presiding Judge. Required features of any program or practitioner acceptable to the Commission will be:
- 5.1.8.12.6.1 Accreditation or licensure by an appropriate government agency, if required by Delaware law;
- 5.1.8.12.6.2 A minimum of one year follow up of formal treatment; and
- 5.1.8.12.6.3 A formal contract indicating the elements of the treatment and follow up program that will be completed by the licensee and, upon completion, certified to the Commission or Presiding Judge as completed. To effect the contract, the licensee will authorize release of information by the treating agency, hospital or individual.
- 5.1.8.12.7 For third-time violators, the violator's license may be revoked and the violator may be deemed ineligible for licensure for up to five years.
- 5.1.8.13 Although relapse (failure to maintain abstinence) is not inevitable, it is common for relapse to occur in recovery from alcoholism or other substance dependence. Therefore, a licensee who is engaged in a formal program of recovery, and is compliant with all provisions other than abstinence, will not be regarded automatically as having committed a new violation.

- 5.1.8.14 ~~When a licensee is determined to have failed in maintaining abstinence, the licensee shall furnish to the Commission or Presiding Judge an assessment by the treating agency, hospital or individual practitioner indicating whether the licensee was compliant with the agreed upon program of recovery, and an opinion as to whether a "new violation" occurred.~~
- 5.1.8.15 ~~The Commission or Presiding Judge will determine whether a new violation has occurred in each instance. If a new violation has occurred, the Commission or Presiding Judge will proceed under 5.1.8.12.1 5.1.8.12.3 above or 5.1.8.12.4 5.1.8.12.6 above. Otherwise, the licensee shall continue in the agreed upon program of recovery.~~
- 5.1.8.5.4 Actions in the case of a third or subsequent violation, within two years of the second or most recent violation, may include imposition of a fine of up to \$5,000 or written warning, revocation of the license, suspension of the license for up to five years, placing the violator on probation and ordering the licensee to enroll in and complete, at the licensee's expense, a recognized, appropriately licensed treatment program.
- 5.1.8.5.5 The licensee shall be required to pay for any costs associated with any alcohol or drug testing following a violation of Section 5.1.8.2.
- 5.1.8.5.6 The terms of any probation shall be determined at the discretion of the Commission.
- 5.1.8.5.7 In the case of a violation of Section 5.1.8.2 involving an illegal drug, actions for any violation may include any actions provided in Section 5.1.8.5.4 otherwise applicable to third or subsequent violations.
- 5.1.9 Approval or Recommendations by Presiding Judge
The Commission may designate categories of licenses which shall require the Presiding Judge's prior approval or recommendation.
- 5.1.10 Employer Responsibility
- 5.1.10.1 The employment or harboring of any unlicensed person at facilities under the jurisdiction of the Commission is prohibited.
- 5.1.10.2 With respect to personnel actions based on a violation of any rule of the Commission relating to racing or pari-mutuel wagering, every employer shall report the discharge of any licensed employee in writing to the Commission or its designee, including the person's name, occupation and reason for the discharge.
- 5.1.11 Employer Endorsement of License Applications. The license application of an employee shall be signed by the employer.
- 5.1.12 Workers' Compensation. Licensed employers shall carry workers' compensation insurance covering their employees as required by Delaware law.
- 5.1.13 Financial Responsibility. Applicants for a license may be required to submit evidence of financial responsibility and shall maintain financial responsibility during the period for which the license is issued.
- 5.1.14 License Refusal. The Commission or its designee may refuse to issue a license and give the applicant the option of withdrawal of an application without prejudice. If an applicant is refused, the applicant may reapply for a license.
- 5.1.15 License Denial. The Commission may formally deny an application in accordance with these rules. An application denied shall be reported in writing to the applicant stating the reasons for denial, the date when a reapplication may be submitted, and shall be reported to the United States Trotting Association, which shall then advise other racing jurisdictions.
- 5.1.16 Grounds for Refusal, Denial, Suspension or Revocation of License
- 5.1.16.1 The Commission or its designee may refuse to issue or may deny a license to an applicant, or may suspend or revoke a license issued, or may order disciplinary measures, if the applicant:
- 5.1.16.1.1 has been convicted of a felony;
- 5.1.16.1.2 has been convicted of violating any law regarding gambling or a controlled dangerous substance;

- 5.1.16.1.3 has pending criminal charges; or
- 5.1.16.1.4 is unqualified to perform the duties required of the applicant;
- 5.1.16.1.5 has failed to disclose or states falsely any information required in the application;
- 5.1.16.1.6 has been found in violation of statutes or rules governing racing in this state or other jurisdictions;
- 5.1.16.1.7 has racing disciplinary charges pending in this state or other jurisdictions;
- 5.1.16.1.8 has been or is currently excluded from association grounds by a recognized racing jurisdiction;
- 5.1.16.1.9 has had a license denied, suspended or revoked by any racing jurisdiction;
- 5.1.16.1.10 is a person whose conduct or reputation may adversely reflect on the honesty and integrity of horse racing or interfere with the orderly conduct of a race meeting;
- 5.1.16.1.11 demonstrates financial irresponsibility by accumulating unpaid obligations, defaulting in obligations or issuing drafts or checks that are dishonored or payment refused;
- 5.1.16.1.12 is ineligible for employment pursuant to federal or state law because of age or citizenship; or
- 5.1.16.1.13 has violated any of the alcohol or substance abuse provisions outlined in these rules.
- 5.1.16.2 A license suspension or revocation shall be reported in writing to the applicant and the United States Trotting Association whereby other racing jurisdictions shall be advised.
- 5.1.17 License Restrictions, Limitations and Conditions. The Commission or its designee, for cause, may restrict, limit or place conditions on any license.
- 5.1.18 Duration of License
 - 5.1.18.1 Licenses are valid for such other period as permitted by the Commission.
 - 5.1.18.2 A license is valid only under the condition that the licensee remains eligible to hold such license.
- 5.1.19 Changes in Application Information. During the period for which a license has been issued, the licensee shall report to the Commission changes in information provided on the license applications as to current legal name, marital status, permanent address, criminal convictions, license suspensions of 10 days or more or license revocations or fines of \$500 or more in other jurisdictions.
- 5.1.20 Temporary Licenses. The Commission may establish provisions for temporary licenses or may permit applicants to participate in racing pending action on an application.
- 5.1.21 More Than One License. More than one license to participate in horse racing may be granted to a person except when prohibited by these rules due to a potential conflict of interest.
- 5.1.22 Conflict of Interest
 - 5.1.22.1 The Commission or its designee shall refuse, deny, suspend or revoke the license of a person whose spouse holds a license and which the Commission or judges find to be a conflict of interest.
 - 5.1.22.2 A commissioner or Commission employee or racing official shall not be an owner of a horse entered to race, and shall not accept breeder awards at, a race meeting where the Commission has jurisdiction.
 - 5.1.22.3 A racing official who is an owner of either the sire or dam of a horse entered to race shall not act as an official with respect to that race.
 - 5.1.22.4 A person who is licensed as an owner or trainer, or has any financial interest in a horse registered for racing at a race meeting in Delaware shall not be employed or licensed at that race meeting as a racing official; racetrack managing employee; photo finish operator; racing chemist or testing laboratory employee; provided, further, that a racing official who is the parent, child or sibling of such person shall not officiate on any day when the horse owned or trained, or in which the person has any financial interest, is entered to race at association grounds; provided, however, that a parent, child or sibling acting as a groom for such a horse shall not be deemed to pose a conflict of interest for an official.

5.1.23 License Presentation

- 5.1.23.1 A person shall present an appropriate license to enter a restricted area.
- 5.1.23.2 The Presiding Judge may require visible display of a license in a restricted area.
- 5.1.23.3 A license may only be used by the person to whom it is issued.

5.1.24 Visitor's Pass. Track security may authorize unlicensed persons temporary access to restricted areas. Such persons shall be identified and their purpose and credentials verified and approved in writing by track security. A copy of the written approval shall be filed with the Commission or its designee within 48 hours. Such authorization or credential may only be used by the person to whom it is issued.

5.1.25 Safety Helmets and Vests

- 5.1.25.1 Safety Helmets: A protective helmet, meeting the Snell Foundation standards for protective harness racing headwear, securely fastened under the chin, must be worn at all times on association grounds when:
 - 5.1.25.1.1 racing, parading or warming up a horse prior to racing; or
 - 5.1.25.1.2 jogging, training or exercising a horse at any time.
- 5.1.25.2 Safety Vests: A safety vest approved by the Delaware Harness Racing Commission must be worn by all person at all times when on the main track whether for jogging, exercising, qualifying or racings.
- 5.1.25.3 A violation of this rule shall result in a suspension or fine and the participant may be referred to the Commission.

5.1.26 Knowledge of Rules

- 5.1.26.1 A licensee shall be knowledgeable of the rules of the Commission; and by acceptance of the license, agrees to abide by the rules.
- 5.1.26.2 A licensee shall report to track security or to the judges any knowledge he has that a violation of these rules has occurred or may occur.

5.1.27 Standards of Conduct

- 5.1.27.1 No licensee shall use improper language to any race official, or be guilty of any improper conduct toward such officials or persons serving under their orders, such improper language or conduct having reference to the administration of the course, or of any race.
- 5.1.27.2 No licensee shall commit an assault, or an assault and battery, upon any driver, trainer, groom, racing official or Commission appointee on the grounds of a racing association, or upon a racing official or Commission appointee who is in the performance of his official duties, nor shall any licensee threaten to do bodily or other injury to any driver, trainer, groom, racing official or Commission appointee, nor shall any licensee address to any such person language which is outrageously insulting.
- 5.1.27.3 If any licensee shall threaten, or join with others in threatening, not to race, or not to declare in, because of the entry of a certain horse or horses, or of a particular stable, thereby compelling or trying to compel the Racing Secretary to reject certain eligible entries, it shall be reported immediately to the Presiding Judge, and the offending parties may be suspended by the Presiding Judge pending a hearing before the Commission.
- 5.1.27.4 No owner, agent, trainer or driver who has entered a horse shall thereafter demand of the association a bonus of money or other special award or consideration as a condition for starting the horse.
- 5.1.27.5 No owner, trainer or driver of a horse shall bet or cause any other person to bet on his behalf on any other horse in any race in which there shall be a horse owned, trained or driven by him, or which he in anywise represents or handles or in which he has an interest; provided, however, that such a person may participate in multiple pool wagering on a race in which his horse is included in the wager only in the first (winning) position.
- 5.1.27.6 If any licensee shall be approached with any offer or promise of a bribe, or a wager or with a request or suggestion for a bribe, or for any improper, corrupt or fraudulent act in relation

- to racing, or that any race shall be conducted otherwise than fairly and honestly, it shall be the duty of such licensee to report the details thereof immediately to the Presiding Judge.
- 5.1.27.7 Any misconduct on the part of a licensee or patron, fraudulent in its nature or injurious to racing, although not specified in these rules, is forbidden. Any licensee or other person who, individually or in concert with one another, shall fraudulently and corruptly, by any means, affect the outcome of any race or affect a false registration, or commit any other act injurious to racing, shall be guilty of a violation of these rules.
- 5.1.27.8 If two or more persons combine and confederate together, in any manner, regardless of where the said persons may be located, for the purpose of violating any of the Rules and Regulations of the Commission, and shall commit some act in furtherance of the said purpose or plan, it shall constitute a conspiracy and a violation of these rules.
- 5.1.27.9 In any case where an oath is administered by the judges, by the Presiding Judge, by the Commission or by a hearing officer thereof, under these rules, or by a Notary Public and any other person legally authorized to administer oaths, if the party knowingly swears falsely or withholds information pertinent to the investigation, he shall be fined, suspended, or both, or expelled.
- 5.1.27.10 The Commission may impose a fine or suspension on, or may refuse to license, any person subject to the jurisdiction of the Commission if the Commission finds that such person:
- 5.1.27.10.1 Is associating, consorting or negotiating with bookmakers, touts or other persons of similar pursuits; or
 - 5.1.27.10.2 Is associating, consorting or negotiating with persons who have been convicted of a crime; or
 - 5.1.27.10.3 Is guilty of fraud or has attempted any fraud or misrepresentation in connection with racing, breeding or otherwise; or
 - 5.1.27.10.4 Has violated any law, rule or regulation with respect to racing in any jurisdiction; or
 - 5.1.27.10.5 Has violated any rule, regulation or order of the Commission; or
 - 5.1.27.10.6 Is of such experience, character or general unfitness that the person's participation in harness racing or related activities would be inconsistent with the public interest, convenience or necessity, or with the best interests of racing generally.
- 5.1.27.11 The Commission may refuse admission to race meeting grounds, and/or may eject from the enclosure of a race track operated by any association, any person whose presence there is, in the judgment of the Commission, inconsistent with the orderly or proper conduct of a race meeting, or whose presence or conduct is deemed detrimental to the best interests of harness racing.
- 5.1.27.12 Any person, whether a licensee or a patron, may be expelled from the enclosure of a race track operated by any association for any violation of Rule 5.1.27.
- 5.1.27.13 All licensees, officials and appointees of the Commission, and all employees of any association, are required to conduct themselves in a forthright and courteous manner at all times while on or near the premises of an association during the operation of a licensed harness race meeting. The Commission at any time may require the removal of any licensee, official, appointee or employee whose conduct does not comport with this requirement.
- 5.1.27.14 Licensees tampering with eligibility certificates may be fined, or their licenses may be suspended or revoked. Further, any winnings of such licensees in races in which a horse was entered whose eligibility certificate was tampered with by such licensee may be ordered forfeited.

5.2 Owners

5.2.1 Licensing Requirements for Owners

- 5.2.1.1 Each person who has an ownership or beneficial interest in a horse is required to be licensed.

- 5.2.1.2 An applicant for an owner's license shall own or lease a horse which is eligible to race, registered with the racing secretary and under the care of a trainer licensed by the Commission. An owner shall notify the judges of a change in trainer of his horse. A horse shall not be transferred to a new trainer after entry.
- 5.2.1.3 The provisions of 5.1.4 notwithstanding, a person younger than 14 years of age may apply for an owner's license, provided that no licensed owner younger than 14 years of age will be permitted paddock access at any licensed association. If younger than 18 years of age, an applicant for an owner's license shall submit a notarized affidavit from his parent or legal guardian stating that the parent or legal guardian expressly assumes responsibility for the applicant's financial, contractual and other obligations relating to the applicant's participation in racing.
- 5.2.1.4 If the Commission or its designee has reason to doubt the financial responsibility of an applicant for an owner's license, the applicant may be required to complete a verified financial statement.
- 5.2.1.5 Horses not under lease must race in the name of the bona fide owner. Each owner shall comply with all licensing requirements.
- 5.2.1.6 The Commission or its designee may refuse, deny, suspend or revoke an owner's license for the spouse or member of the family or household of a person ineligible to be licensed as an owner, unless there is a showing on the part of the applicant or licensed owner, and the Commission determines that participation in racing will not permit a person to serve as a substitute for an ineligible person. The transfer of a horse to circumvent the intent of a Commission rule or ruling is prohibited.
- 5.2.2 Licensing Requirements for Multiple Owners
 - 5.2.2.1 If the legal owner of any horse is a partnership, corporation, limited liability company, syndicate or other association or entity, each shareholder, member or partner shall be licensed as required in 5.1.1 of this section.
 - 5.2.2.2 Each partnership, corporation, limited liability company, syndicate or other association or entity shall disclose to the Commission all owners holding a five percent or greater beneficial interest, unless otherwise required by the Commission.
 - 5.2.2.3 Each partnership, corporation, limited liability company, syndicate or other association or entity which includes an owner with less than a five percent ownership or beneficial interest shall file with the Commission an affidavit which attests that, to the best of their knowledge, every owner, regardless of their ownership or beneficial interest, is not presently ineligible for licensing or suspended in any racing jurisdiction.
 - 5.2.2.4 To obtain an owner's license, an owner with less than a five percent ownership or beneficial interest in a horse shall establish a bona fide need for the license and the issuance of such license shall be approved by the Commission.
 - 5.2.2.5 Application for joint ownership shall include a designation of a managing owner and a business address. Receipt of any correspondence, notice or order at such address shall constitute official notice to all persons involved in the ownership of such horse.
 - 5.2.2.6 The written appointment of a managing owner or authorized agent shall be filed with the United State Trotting Association or Canadian Trotting Association and with the Commission.
- 5.2.3 Lease Agreements. A horse may be raced under lease provided a completed breed registry or other lease form acceptable to the Commission is attached to the certificate of registration and on file with the Commission. The lessor and lessee shall be licensed as horse owners. For purposes of issuance of eligibility certificates and/or transfers of ownership, a lease for an indefinite term shall be considered terminable at the will of either party unless extended or reduced to a term certain by written documentation executed by both lessor and lessee.
- 5.2.4 Racing Colors. Drivers must wear distinguishing colors, and shall not be permitted to drive in a race or other public performance unless, in the opinion of the judges, they are properly dressed, their driving outfits are clean and they are well groomed. During inclement weather conditions,

drivers must wear rain suits in either of their colors or made of a transparent material through which their colors can be distinguished.

5.3 Trainers

5.3.1 Eligibility

5.3.1.1 A person shall not train horses, or be programmed as trainer of record at extended meetings, without first having obtained a trainer license valid for the current year by meeting the standards for trainers, as laid down by the United State Trotting Association, and being licensed by the Commission. The "trainer of record" shall be any individual who receives compensation for training the horse. The holder of a driver's license issued by the United States Trotting Association is entitled to all privileges of a trainer and is subject to all rules respecting trainers.

5.3.1.2 Valid categories of licenses are:

5.3.1.2.1 "A," a full license valid for all meetings and permitting operation of a public stable.; and

5.3.1.2.2 "L," a license restricted to the training of horses while owned by the holder and/or his or her immediate family at all race meetings.

5.3.1.3 If more than one person receives any form of compensation, directly or indirectly, for training the horse, then the principal trainer or trainers must be listed as "trainer of record". It shall be a violation for the principal trainer or trainers of a horse not to be listed as "trainer of record", and, if such unlisted principal trainer or trainers are licensees of the Commission, then he, she or they shall be subject to a fine and/or suspension for such violation. In addition, it shall be a violation for a person who is not the principal trainer of the horse to be listed as "trainer of record", and such person shall be subject to a fine and/or suspension for such violation. Principal trainers and programmed trainers shall be equally liable for all rule violations. For purposes of this rule, the Steward and judges shall use the following criteria in determining the identity of the principal trainer or trainers of a horse:

5.3.1.3.1 The identity of the person who is responsible for the business decisions regarding the horse, including, but not limited to, business arrangements with and any payments to or from owners or other trainers, licensed or otherwise, veterinarians, feed companies, hiring and firing of employees, obtaining workers' compensation or proof of adequate insurance coverage, payroll, horsemen's bookkeeper, etc.;

5.3.1.3.2 The identity of the person responsible for communicating, or who in fact does communicate, with the racing secretary's office, stall manager, association and track management, owners, etc. regarding racing schedules and other matters pertaining to the entry, shipping and racing of the horse;

5.3.1.3.3 The identity of the person responsible for the principal conditioning of the horse;

5.3.1.3.4 The identity of the person responsible for race day preparation including, but not limited to, accompanying the horse to the paddock or ship-in barn, selection of equipment, authority to warm up the horse before the public, discussion with the driver of race strategy, etc.; and

5.3.1.3.5 The identity of the person who communicates on behalf of the owner with the Steward, judges and other Commission personnel regarding the horse, including regarding any questions concerning the location or condition of the horse, racing or medication violations, etc.

5.3.2 Trainer Responsibility

5.3.2.1 A trainer is responsible for the condition of horses entered in an official race and is responsible for the presence of any prohibited drug, medication or other substance, including permitted medication in excess of the maximum allowable level, in such horses. A positive test for a prohibited drug, medication or substance, including permitted medication in excess of the maximum allowable level, as reported by a Commission-approved laboratory, is prima facie evidence of a violation of this rule. In the

absence of substantial evidence to the contrary, the trainer shall be responsible. Whenever a trainer of a horse names a substitute trainer for program purposes due to his inability to be in attendance with the horse on the day of the race, or for any other reason, both trainers shall be responsible for the condition of the horse should the horse test positive.

5.3.2.2 A trainer shall prevent the administration of any drug or medication or other prohibited substance that may cause a violation of these rules.

5.3.2.3 A trainer whose horse has been claimed remains responsible for any violation of rules regarding that horse's participation in the race in which the horse is claimed.

5.3.3 Other Responsibilities. A trainer is responsible for:

5.3.3.1 the condition and contents of stalls, tack rooms, feed rooms, sleeping rooms and other areas which have been assigned by the association;

5.3.3.2 maintaining the assigned stable area in a clean, neat and sanitary condition at all times;

5.3.3.3 ensuring that fire prevention rules are strictly observed in the assigned stable area;

5.3.3.4 providing a list to the Commission of the trainer's employees on association grounds and any other area under the jurisdiction of the Commission. The list shall include each employee's name, occupation, social security number and occupational license number. The Commission shall be notified by the trainer, in writing, within 24 hours of any change;

5.3.3.5 the proper identity, custody, care, health, condition and safety of horses in his charge;

5.3.3.6 disclosure of the true and entire ownership of each horse in his care, custody or control;

5.3.3.7 registering with the racing secretary each horse in his charge within 24 hours of the horse's arrival on association grounds;

5.3.3.8 ensuring that, at the time of arrival at a licensed racetrack, each horse in his care is accompanied by a valid health certificate which shall be filed with the racing secretary;

5.3.3.9 having each horse in his care that is racing, or is stabled on association grounds, tested for Equine Infectious Anemia (EIA) in accordance with state/provincial law and for filing evidence of such negative test results with the racing secretary;

5.3.3.10 using the services of those veterinarians licensed by the Commission to attend horses that are on association grounds;

5.3.3.11 immediately reporting the alteration of the sex of a horse in his care to the horse identifier and the racing secretary, whose office shall note such alteration on the certificate of registration;

5.3.3.12 promptly reporting to the Presiding Judge, racing secretary and the State veterinarian any horse on which a posterior digital neurectomy (heel nerving) is performed and ensuring that such fact is designated on its certificate of registration;

5.3.3.13 promptly notifying the State veterinarian of any reportable disease and any unusual incidence of a communicable illness of any horse in his charge;

5.3.3.14 promptly reporting the death of any horse in his care on association grounds to the judges and the State veterinarian and compliance with the rules in Chapter 8 governing post-mortem examinations;

5.3.3.15 maintaining a knowledge of the medication record and status of all horses in his care;

5.3.3.16 immediately reporting to the Presiding Judge and the State veterinarian if he knows, or has cause to believe, that a horse in his custody, care or control has received any prohibited drugs or medication;

5.3.3.17 representing an owner in making entries and scratches and in all other matters pertaining to racing;

5.3.3.18 horses entered as to eligibility and allowances claimed;

5.3.3.19 ensuring the fitness of a horse to perform creditably at the distance entered;

5.3.3.20 ensuring that his horses are properly prepared and equipped;

- 5.3.3.21 presenting his horse in the paddock at a time prescribed by the Presiding Judge before the race in which the horse is entered;
 - 5.3.3.22 personally attending to his horses in the paddock and supervising the preparation thereof, unless excused by the Paddock Judge;
 - 5.3.3.23 attending the collection of a urine or blood sample from the horse in his charge or delegating a licensed employee or the owner of the horse to do so; and
 - 5.3.3.24 notifying horse owners upon the revocation or suspension of his trainer's license. Upon application by the owner, the Presiding Judge may approve the transfer of such horses to the care of another licensed trainer, and upon such approved transfer, such horses may be entered to race.
 - 5.3.4 Restrictions on Wagering. A trainer shall only be allowed to wager on his horse or entries to win or finish first in combination with other horses.
 - 5.3.5 Substitute Trainers. If any licensed trainer is to be absent from the association grounds where his horse is programmed to race the Presiding Judge shall be immediately notified and at that time a licensed substitute trainer, acceptable to the Presiding Judge, shall be appointed to assume responsibility for the horse(s) racing during the absence of the regular trainer. The name of the substitute trainer shall appear on the program if possible.
- 5.4 Owners' Authorized Agents
- 5.4.1 Licenses Required
 - 5.4.1.1 An authorized agent shall obtain a license from the Commission.
 - 5.4.1.2 Application for license shall be filed for each owner represented.
 - 5.4.1.3 A written instrument signed by the owner shall accompany the application and shall clearly set forth the delegated powers of the authorized agent. The owner's signature on the written instrument shall be acknowledged before a notary public.
 - 5.4.1.4 If the written instrument is a power of attorney it shall be filed with the Commission and attached to the regular application form.
 - 5.4.1.5 Any changes shall be made in writing and filed as provided in 5.4.1.3 above.
 - 5.4.1.6 The authorized agent's appointment may be terminated by the owner, in writing, acknowledged before a notary public and filed with the Commission whereupon the license shall not be valid.
 - 5.4.2 Powers and Duties
 - 5.4.2.1 A licensed authorized agent may perform on behalf of the licensed owner-principal all acts as relate to racing, as specified in the agency appointment, that could be performed by the principal if such principal were present.
 - 5.4.2.2 In executing any document on behalf of the principal, the authorized agent shall clearly identify the authorized agent and the owner-principal.
 - 5.4.2.3 When an authorized agent enters a claim for the account of a principal, the name of the licensed owner for whom the claim is being made and the name of the authorized agent shall appear on the claim slip or card.
 - 5.4.2.4 Authorized Agents are responsible for disclosure of the true and entire ownership of each horse for which they have authority at a race meeting. Any change in ownership shall be reported immediately to, and approved by, the judges and recorded by the United States Trotting Association.
- 5.5 Drivers
- 5.5.1 A person shall not drive a horse in any race or performance against time, other than an exhibition race, without having first obtained a driver license valid for the current year by meeting the standards as established by the United States Trotting Association and being licensed by the Commission. The driver license shall be presented to the judges prior to participating for the first time at any race meeting.
 - 5.5.2 The judges may review the performance of a driver at any time and may take the following actions:

- 5.5.2.1 amend the license category;
- 5.5.2.2 revoke the license;
- 5.5.2.3 apply conditions to the license; or
- 5.5.2.4 require the driver to re-qualify for his license in accordance with the United States Trotting Association regulations.
- 5.5.3 Drivers must report to the Paddock Judge at least one hour before post time of any race in which they are programmed to drive, unless excused by the Presiding Judge.
- 5.5.4 Where advanced wagering takes place on any feature betting race, drivers programmed to drive in such races must make their presence known to the Paddock Judge prior to commencement of the advanced wagering.
- 5.5.5 A driver cannot decline to be substituted by the judges. Any driver who refuses shall be suspended and may be fined.
- 5.5.6 Once a driver reports to the paddock he shall not enter the public stands or the betting area until his driving duties for the day have been completed and upon completion of driving duties the driver shall not enter the public stands until he has replaced his driving outfit with ordinary clothing.
- 5.5.7 The judges may remove a driver at any time if, in his or their opinion, his driving would not be in the best interests of harness racing.
- 5.5.8 A driver shall not drive for any other person in a race in which one of the horses he trains or owns has been declared into race, except where such horses are coupled as an entry.
- 5.5.9 Drivers shall fulfill all engagements, unless excused by the judges.
- 1 DE Reg. 502 (11/01/97)**
- 5 DE Reg. 832 (10/01/01)**
- 10 DE Reg. 1422 (03/01/07)**
- 11 DE Reg. 1050 (02/01/08)**
- 13 DE Reg. 1253 (04/01/10)**
- 14 DE Reg. 23 (07/01/10) (Final)**

***Please Note: As the rest of the sections are not being amended, they are not being published here. A complete copy of the proposed regulation is available at:**

<http://regulations.delaware.gov/register/july2010/final/14 DE Reg 23 07-01-10.htm>