

(h) (No change.)

(i) **The Division shall review the prescription monitoring information provided by a pharmacy permit holder pursuant to N.J.S.A. 45:1-45 et seq., and the rules of this subchapter. The review shall include, but not be limited to, a review to identify whether:**

1. **Any person is obtaining a prescription in a manner that may be indicative of misuse, abuse, or diversion of a controlled dangerous substance. When an evaluation of the information indicates that a person may be obtaining a prescription for the same or a similar controlled dangerous substance from multiple practitioners or pharmacies during the same period, the Division may provide prescription monitoring information about the person to practitioners and pharmacies; and**

2. **A violation of law or regulation or breach of the applicable standards of practice by any person may have occurred, including, but not limited to, diversion of a controlled dangerous substance. If the Division determines that such a violation or breach may have occurred, the Division shall notify the appropriate law enforcement agency or professional licensing board, and provide the prescription monitoring information required for an investigation.**

[(i)] (j) (No change in text.)

13:45A-35.10 Recordkeeping

(a)-(c) (No change.)

(d) **Each mental health practitioner shall retain in the patient record a copy of the patient consent, and any PMP information accessed for the patient.**

[(d)] (e) (No change in text.)

13:45A-35.11 Professional misconduct

(a) Noncompliance with the rules in this subchapter may be deemed professional misconduct and may subject the pharmacy permit holder, an out-of-State pharmacy that is subject to this subchapter, pharmacist, practitioner, licensed health care professional, [or] registered dental assistant, or **mental health practitioner** to disciplinary action pursuant to the provisions of N.J.S.A. 45:1-21 and to the penalties set forth in N.J.S.A. 45:1-49.

(b)-(g) (No change.)

## (a)

### NEW JERSEY RACING COMMISSION

#### Horse Racing

#### Exemption from Claim; Voidable Claims

#### Proposed Amendments: N.J.A.C. 13:70-12.1A and 12.20A

Authorized By: New Jersey Racing Commission, Frank Zanzuccki, Executive Director.

Authority: N.J.S.A. 5:5-30.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2018-021.

Submit written comments by May 4, 2018, to:

Frank Zanzuccki, Executive Director  
Department of Law and Public Safety  
New Jersey Racing Commission  
PO Box 088  
Trenton, NJ 08625-0088  
E-mail: [NJRCWebinfo@lps.state.nj.us](mailto:NJRCWebinfo@lps.state.nj.us)

The agency proposal follows:

#### Summary

Subchapter 12, Claiming, sets forth the rules of the New Jersey Racing Commission (Commission) governing claiming races and specifies from whom a claim can derive, the process for such claim, and the actions of the racetrack stewards and veterinarians in overseeing the claiming process and in properly responding to every claim. The

Commission proposes several amendments to the subchapter in response to public comments received in connection with the adoption of a 2016 rulemaking pertaining to claiming rules. (see 48 N.J.R. 1590(a); 2826(a))

N.J.A.C. 13:70-12.1A(a) is proposed for amendment to make a grammatical change.

N.J.A.C. 13:70-12.1A(a)1 is proposed for amendment to clarify the conditions necessary for a horse to be exempt from claiming. Specifically, the rule is proposed for amendment to explain that if a horse is entered into a race, that horse can be scratched prior to off-time without harming the trainer's and owner's right to exempt that horse the next time it starts a race. The amendment is proposed to safeguard the health of racehorses. If a horse is entered into a race but still has a lingering injury, the owner and/or trainer need not fear that they have wasted their one-time exemption by entering the horse into a race, as long as the horse does not start.

N.J.A.C. 13:70-12.20A(a)1 is proposed for amendment in response to concerns raised during the prior public comment period and to clarify a trainer's liability in the case of a claimed horse. The proposed amendment adds a restriction to the claimant's right to void a claim should a horse test positive for a drug or substance foreign to the natural horse after the race in which it was claimed. Typically, test results are received from the testing laboratory between seven and 10 days after the samples are taken. Should a sample of a claimed horse result in a positive finding, the claimant has a right to void his or her claim and return the horse to the previous owner. However, should the claimant decide to race the claimed horse prior to receiving the post-race test results, the claimant forfeits his or her right to void the claim regardless of the test results. This is warranted because of the risk of injury should the horse be raced. Further, should the claimant decide to race the horse in a subsequent race prior to receiving the test results and the horse tests positive in the subsequent race, the trainer of the horse is liable for the positive result even if the testing result from the race in which the horse was claimed returns a positive finding for the same substance as the finding in the subsequent race. The trainer will be liable if he or she enters a horse that tests positive.

N.J.A.C. 13:70-12.20A(a)2 is also proposed for amendment in response to concerns raised during the prior public comment period. The rule currently states that a claimant has one hour from the post time of the race to void a claim if the horse is vanned off the track in the equine ambulance. Due to the varying nature of a race's actual start time and the potential for delays due to inclement weather or other factors, the post time listed on the program is not a satisfactory guidepost from which to calculate the claimant's timeframe to void his or her claim. The intent of the rule is for the claimant to have one hour from the time the race is run to void his or her claim. Thus, the proposed amendments change the time limit from one hour after the post time of a race to one hour after the off time of a race. This change is in line with the intent of the rule. The paragraph is also proposed for amendment to allow the actions of the claimant's trainer or representative to cause the ability to void a claim to expire.

As the Commission has provided a 60-day comment period for this notice of proposal, this notice is excepted from the rulemaking calendar requirements pursuant to N.J.A.C. 1:30-3.3(a)5.

#### Social Impact

The proposed amendments are in response to comments from the public. The impact of these proposed amendments will be felt by owners and trainers of racehorses who decide to utilize the exemption option when entering a horse into a claiming race. The proposed amendments will also affect claimants that have the option of voiding their claim by eliminating the right to void a claim should the claimant decide to race the horse prior to receiving test results.

The proposed amendments should serve to better safeguard the health of racehorses in New Jersey as they clarify that an owner or trainer can scratch a horse from a race in which it is entered without losing the horse's one time right to be exempt from claim. Further, should a horse be vanned off of a racetrack, the proposed amendments ensure that the claimant will have a full hour to consider whether to void his or her claim.

There should not be any social impact on a larger scale as these proposed amendments only affect the horses and persons involved with claiming races.

**Economic Impact**

Implementation of the proposed amendments will affect the trainers of claimants by a small degree. By eliminating a claimant’s right to void a claim should that claimant race a horse prior to receiving the post-race test results, the trainer for the claimant has to weigh the risk of entering the horse into a race prior to receiving test results from the race in which the horse was claimed. The claimant, as owner of the horse, will also face the loss of the purse should the horse test positive.

Due to the nature of the practices being prohibited, enforcement of the proposed amendments will come at no additional cost to the Commission, industry, or State. There are no other economic impacts envisioned at this time.

**Federal Standards Statement**

A Federal standards analysis is not required as there are no Federal standards or requirements applicable to the proposed amendments. The Commission proposes these amendments pursuant to the rulemaking authority set forth at N.J.S.A. 5:5-30.

**Jobs Impact**

The proposed amendments are not expected to create or eliminate any jobs in the racing industry. It is likely that additional job responsibilities will be required for certain employees of the Commission, but the responsibilities should be marginal and can be attended to by existing staff.

**Agriculture Industry Impact**

The proposed amendments may have an insignificant impact on the agriculture industry in New Jersey but there is an extreme unlikelihood that the rules would evoke a change in the costs or practices associated with agriculture.

**Regulatory Flexibility Statement**

The proposed amendments will not have an impact on small businesses as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments will not evoke a change in the operation and practice of any small businesses because the proposed amendments relate to the claiming of racehorses from claims races. There will be no need to involve any small businesses in the claiming of race horses.

**Housing Affordability Impact Analysis**

It is anticipated that the proposed amendments will not have an impact on the affordability of housing in New Jersey. There is an extreme unlikelihood that the proposed amendments will evoke a change in the average costs associated with housing because the proposed amendments relate to the claiming of racehorses from claims races.

**Smart Growth Development Impact Analysis**

It is anticipated that the proposed amendments will not have an impact on smart growth. There is an extreme unlikelihood that the proposed amendments will evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the proposed amendments relate to the claiming of racehorses from claiming races.

**Full text** of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 12. CLAIMING

13:70-12.1A Exemption from claim

(a) A horse **that is** entered into any claiming race governed by this subchapter shall be exempted from any claim of title, if:

- 1. Said horse has not started in any race for a period of 180 days from the date of [its] **the last claiming race in which the horse was a starter**;
- 2.-.3 (No change.)
- (b) (No change.)

13:70-12.20A Voidable claims

(a) A claim is voidable at the discretion of the successful claimant if:

1. A post-race test of the claimed horse pursuant to N.J.A.C. 13:70-12.36 returns a positive finding for any drug and/or substance foreign to the natural horse[;]. **However, if the successful claimant races the horse prior to receiving the results of the post-race test, the claimant waives his or her right to void the claim. Further, if the claimant races the horse prior to receiving the results of the post-race test and the horse tests positive for any substance, including the substance that the horse tested positive for in connection with the race in which it was claimed, the claimant’s trainer shall be liable for the positive post-race test in accordance with the rules of the Commission;** or

2. A claimed horse, after starting in the race from which it was claimed, and at the direction of the State Veterinarian, is ordered transported or “vanned off” via racetrack equine ambulance from the track. In such an instance, the claimant or his or her trainer shall have one hour from [post time] **off-time** of the race in which the horse was claimed, to inform the stewards of his or her decision to void the claim. Should the claimant, **or his or her trainer or representative**, take possession of the horse and remove it from the detention barn or should the claimant or his or her trainer fail to communicate to the stewards his or her decision to void the claim within one hour from [post time] **off-time**, the claim shall be considered valid and the right to void the claim shall expire. Communication of the claimant’s decision to void the claim may be made to the State Veterinarian who shall then log the time the decision was communicated and immediately contact the stewards.

(a)

**NEW JERSEY RACING COMMISSION**

**Harness Racing  
Definitions; Exemption from Claim; Voidable  
Claims; Scratched Horse**

**Proposed Amendments: N.J.A.C. 13:71-4.1, 14.2A,  
14.17B, and 14.18**

Authorized By: New Jersey Racing Commission, Frank Zanzuccki, Executive Director.

Authority: N.J.S.A. 5:5-30.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2018-022.

Submit written comments by May 4, 2018, to:

Frank Zanzuccki, Executive Director  
Department of Law and Public Safety  
New Jersey Racing Commission  
PO Box 088  
Trenton, NJ 08625-0088  
E-mail: [NJRCWebinfo@lps.state.nj.us](mailto:NJRCWebinfo@lps.state.nj.us)

The agency proposal follows:

**Summary**

Subchapter 14, Claiming, sets forth the rules of the New Jersey Racing Commission (Commission) governing claiming races and specifies from whom a claim can derive, the process for such claim, and the actions of the racetrack judges and veterinarians in overseeing the claiming process and in properly responding to every claim. The Commission proposes several amendments to the subchapter in response to public comments received in connection with the adoption of a 2016 rulemaking pertaining to claiming rules. (see 48 N.J.R. 1597(a); 2828(a))

An amendment is proposed at N.J.A.C. 13:71-14.2A(a) to make a grammatical change.

N.J.A.C. 13:71-14.2A(a)1 is proposed for amendment to clarify the conditions necessary for a horse to be exempt from claiming. Specifically, the rule is proposed for amendment to explain that if a