

**NEW JERSEY RACING COMMISSION**

**Horse Racing**

**Veterinary Reports**

**Adopted Amendment: N.J.A.C. 13:70-19.41**

**Proposed: November 18, 2002 at 34 N.J.R. 3923(a)**

**Adopted: March 19, 2003 by the New Jersey Racing Commission,**

**Frank Zanzuccki, Executive Director**

**Filed: \_\_\_\_\_ as R. 2003 \_\_\_\_\_, without change**

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

**Effective Date: May 19, 2003**

**Expiration Date: December 22, 2004**

**Summary of Public Comments and Agency Responses:**

As noted, comments relevant to N.J.A.C. 13:70-19.41 and 13:71-9.2 were received by the Racing Commission as propounded by Charles A. Moore, D.V.M., PA., Rick Alampi, Executive Director of the New Jersey Veterinary Medical Association, David J. Kanach, President State Board of Agriculture, Ernest W. Zirkle, D.V.M., Director of the Division of Animal Health, Joseph L. Pollara, D.V.M., Robert Bende, D.V.M., Charles M. Kuperus, Secretary Department of Agriculture, John R. Witmer, D.V.M., Eric H. Kates, D.V.M., Richard S. Meirs, V.M.D., Bruce N. Barnes, V.M.D., President NJAEP, and Pat Salerno, Executive Administrator of S.B.O.A. A summary of these comments, as they relate to N.J.A.C. 13:70-19.41 and 13:71-9.2 and the Racing Commission's response, is set forth immediately below:

**NEW JERSEY RACING COMMISSION**

Harness Racing

Veterinarian (Practicing)

Adopted Amendment: N.J.A.C. 13:71-9.2

Proposed: November 18, 2002 at 34 N.J.R. 3925(a)

Adopted: March 19, 2003 by the New Jersey Racing Commission,

Frank Zanzuccki, Executive Director

Filed: \_\_\_\_\_ as R. 2003 \_\_\_\_\_, without change

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

Effective Date: May 19, 2003

Expiration Date: December 22, 2004

Summary of Public Comments and Agency Responses:

As noted, comments relevant to N.J.A.C. 13:70-19.41 and 13:71-9.2 were received by the Racing Commission as propounded by Charles A. Moore, D.V.M., PA., Rick Alampi, Executive Director of the New Jersey Veterinary Medical Association, David J. Kanach, President State Board of Agriculture, Ernest W. Zirkle, D.V.M., Director of the Division of Animal Health, Joseph L. Pollara, D.V.M., Robert Bende, D.V.M., Charles M. Kuperus, Secretary Department of Agriculture, John R. Witmer, D.V.M., Eric H. Kates, D.V.M., Richard S. Meirs, V.M.D., Bruce N. Barnes, V.M.D., President NJAEP, and Pat Salerno, Executive Administrator of S.B.O.A. A summary of these comments, as they relate to N.J.A.C. 13:70-19.41 and 13:71-9.2 and the Racing Commission's response, is set forth immediately below:

**Comment:** Charles A. Moore, D.V.M., PA. stated that it may not always be practical or possible to provide with no exception full and complete records within 24 hours of

horses under his care. He further stated that in his thirty years in the business when information was requested of him he furnished the reports in a satisfactory time frame with no complaints from the New Jersey Racing Commission.

**Response:** Currently the Racing Commission rules require veterinary practitioners to make daily reports to the state vet and to the stewards. The proposed rule is actually less burdensome because although it requires the production of treatment records within 24 hours, veterinary practitioners are only required to do so in the event of an investigation or when requested to do so. The intent of the proposed rule is to facilitate investigations while at the same time, reducing the amount of paperwork.

**Comment:** Richard J. Alampi, Executive Director of the New Jersey Veterinary Medical Association, commented that his group is concerned about and opposes the language requiring a veterinarian to respond “in full” within 24 hours of the Commission’s request for records. Mr. Alampi stated there is no exception in the proposed rule to the “in full” response within the 24 hour period. Mr. Alampi also feels that the proposal is impractical and unfair and cited several examples where a veterinarian is on vacation or out of state. He further stated he knows of no other licensed professional that is required under any other section of New Jersey’s administrative code to provide “full and complete” response within 24 hours to an inquiry from a regulatory agency. The NJVMA recommends removing the “in full” language from the proposed rule.

**Response:** Currently the Racing Commission rules require veterinary practitioners to make daily reports to the state vet and to the stewards. The proposed rule is actually less burdensome because, although it requires the production of treatment

records within 24 hours, veterinary practitioners are only required to do so in the event of an investigation or when or when requested to do so. The intent of the proposed rule is to facilitate investigations while at the same time, reducing the amount of paperwork.

**Comment:** A letter was received from David J. Kanach, President New Jersey State Board of Agriculture commented that the words “in full” present a problem. Mr. Kanach stated that due to the nature of veterinary practice, there are many legitimate reasons why it may or may not be possible based upon all circumstances to provide a complete medical file on the animal within 24 hours. Examples include travel outside the state of New Jersey or location of records in a remote facility. Mr. Kanach also feels if the rule remains as written veterinarians may choose not to provide services to New Jersey racehorses. If that occurs both racehorses and the equine industry of the state would suffer from a lack of professional medical treatment.

**Response:** Currently the Racing Commission rules require veterinary practitioners to make daily reports to the state vet and to the stewards. The proposed rule is actually less burdensome because although it requires the production of treatment records within 24 hours, veterinary practitioners are only required to do so in the event of an investigation or when or when requested to do so. The intent of the proposed rule is to facilitate investigations while at the same time, reducing the amount of paperwork. The Commission rejects the argument that a medical file cannot be produced within 24 hours, particularly with the technology available today and use of support staff to provide information. The Commission is confident that dedicated veterinarians will continue to provide care to horses and meet their professional

obligation and responsibility.

**Comment:** Ernest W. Zirkle, D.V.M., Director of the Division of Animal Health, commented that he is concerned over the changing of the intent of the original draft which was prepared by the Veterinary Advisory Committee which stated a veterinarian shall respond within 24 hours of notification. The revised language states a veterinarian shall respond to the Commission's request "in full" within 24 hours of notification. He stated the committee is disturbed that the revised language would require that a veterinarian must submit records, data and papers required in the rule within 24 hours, with no exception. Dr. Zirkle stated the committee respectfully requests that the language in the proposed rule be revised back to the original language.

**Response:** Currently the Racing Commission rules require veterinary practitioners to make daily reports to the state vet and to the stewards. The proposed rule is actually less burdensome because although it requires the production of treatment records within 24 hours, veterinary practitioners are only required to do so in the event of an investigation or when or when requested to do so. The intent of the proposed rule is to facilitate investigations while at the same time, reducing the amount of paperwork. The Committee acts in an advisory capacity and can make recommendations to the Racing Commission. The Racing Commission has the authority to approve or disapprove any proposal or recommendation by the Committee.

**Comment:** Joseph A. Pollara, D.V.M. stated that it would be impossible to provide the records "in full" within a 24 hour period. Dr. Pollara also feels there may be circumstances such as weekends, holidays, sickness that would preclude complying

with this regulation as written.

**Response:** Currently the Racing Commission rules require veterinary practitioners to make daily reports to the state vet and to the stewards. The proposed rule is actually less burdensome because although it requires the production of treatment records within 24 hours, veterinary practitioners are only required to do so in the event of an investigation or when or when requested to do so. The intent of the proposed rule is to facilitate investigations while at the same time, reducing the amount of paperwork.

**Comment:** A letter was received from Robert H, Bende, D.V.M. commenting that it is impractical to provide with no exception, complete records on horses under his care within 24 hours of a request by the New Jersey Racing Commission. He recommends that the words “in full” be omitted from the proposed rule.

**Response:** Currently the Racing Commission rules require veterinary practitioners to make daily reports to the state vet and to the stewards. The proposed rule is actually less burdensome because although it requires the production of treatment records within 24 hours, veterinary practitioners are only required to do so in the event of an investigation or when or when requested to do so.

The intent of the proposed rule is to facilitate investigations while at the same time, reducing the amount of paperwork.

**Comment:** Charles M. Kuperus, Secretary Department of Agriculture, commented that the words “in full” present a problem. Mr. Kuperus stated that due to the nature of veterinary practice there are many legitimate reasons why it may or may not be possible based upon all circumstances to provide a complete medical file on the animal

within 24 hours. Examples include travel outside the state of New Jersey or location of records in a remote facility. Mr. Kuperus also feels if the rule remains as written in will become logistically difficult and create an undue hardship on practitioners.

**Response:** Currently the Racing Commission rules require veterinary practitioners to make daily reports to the state vet and to the stewards. The proposed rule is actually less burdensome because although it requires the production of treatment records within 24 hours, veterinary practitioners are only required to do so in the event of an investigation or when or when requested to do so. The intent of the proposed rule is to facilitate investigations while at the same time, reducing the amount of paperwork. The Commission believes that a medical file can be provided within 24 hours, particularly with the technology available and use of support staff.

**Comment:** John R. Witmer, D.V.M. commented that the proposed rule change is not practical in his case in that he is often called to other states to work and it would take more than 24 hours to return home and collect, organize and submit required records. He recommends that the words “in full” be omitted from the proposed rule.

**Response:** Currently the Racing Commission rules require veterinary practitioners to make daily reports to the state vet and to the stewards. The proposed rule is actually less burdensome because although it requires the production of treatment records within 24 hours, veterinary practitioners are only required to do so in the event of an investigation or when or when requested to do so. The intent of the proposed rule is to facilitate investigations while at the same time, reducing the amount of paperwork.

**Comment:** A letter was received form Eric H. Kates, D.V.M. stating that it is very

impractical to require veterinarians without exception to furnish veterinary reports on horses within 24 hours of a request by the New Jersey Racing Commission. He stated in a multi-doctor practice daily treatment sheets are sent to the main office every few days, and the information is then put into a computer by staff 2 days a week as a permanent medical record of the patient. Dr. Kates feels a better approach would be to make a veterinarian or their office respond within 24 hours to provide a timetable for the complete information to be delivered.

**Response:** Currently the Racing Commission rules require veterinary practitioners to make daily reports to the state vet and to the stewards. The proposed rule is actually less burdensome because although it requires the production of treatment records within 24 hours, veterinary practitioners are only required to do so in the event of an investigation or when or when requested to do so. The intent of the proposed rule is to facilitate investigations while at the same time, reducing the amount of paperwork.

**Comment:** A letter was received for Richard S. Meirs, V.M.D. stating that the proposed rule is unrealistic and that it would be absolutely impossible to provide all the records involving a patient within 24 hours. Dr. Meirs suggest the regulation be modified to have the veterinarians respond to the notification within 24 hours and a written copy of the records of the horse in question be provided within 5 working days.

**Response:** Currently the Racing Commission rules require veterinary practitioners to make daily reports to the state vet and to the stewards. The proposed rule is actually less burdensome because although it requires the production of treatment records within 24 hours, veterinary practitioners are only required to do so in the event



of an investigation or when or when requested to do so. The intent of the proposed rule is to facilitate investigations while at the same time, reducing the amount of paperwork.

**Comment:** Bruce N. Barnes, V.M.D. President of the New Jersey Association of Equine Practitioners commented that the proposed rule is unreasonable and/or impossible to comply with in his opinion. He stated that veterinarians travel out of state to practice, take vacation and have personal or family emergencies to deal with. He recommends the Commission change the language to read “response to notification in 24 hours” as previously recommended by Veterinarian Advisory Committee.

**Response:** Currently the Racing Commission rules require veterinary practitioners to make daily reports to the state vet and to the stewards. The proposed rule is actually less burdensome because although it requires the production of treatment records within 24 hours, veterinary practitioners are only required to do so in the event of an investigation or when or when requested to do so. The intent of the proposed rule is to facilitate investigations while at the same time, reducing the amount of paperwork.

**Comment:** Pat Salerno, former Executive Administrator of S.B.O.A., commented that the board agrees that veterinary reports should be submitted when requested by the Racing Commission or by any duly authorized investigator.

**Response:** The Commission agrees with the position taken by the S.B.O.A.

### **Federal Standards Statement**

A Federal standards analysis is not required because the rules of racing are dictated by State statute, N.J.S.A. 5:5-22 et seq., and the proposed amendment is not

subject to any Federal requirements or standards.

The rule text of the adopted rules can be found in the New Jersey Register at 35 N.J.R. 3923(a) and 3925(a).