

In the Matter Of:

INDIANA HORSE RACING COMMISSION MEETING

IHRC Meeting

April 30, 2014

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INDIANA HORSE RACING COMMISSION
MEETING

HELD ON

APRIL 30, 2014

9:00 A.M.

INDIANA STATE LIBRARY

315 W. OHIO STREET

INDIANAPOLIS, INDIANA

TAKEN BY:
ROBIN P. MARTZ, RPR
NOTARY PUBLIC

1 APPEARANCES

2 William Diener, Chairman
 Steve Schaefer, Vice-Chairman
 3 Thomas Weatherwax
 George E. Pillow
 4 Greg Schenkel

5 Joe Gorajec, Executive Director

6 Lea Ellingwood, Esq.
 Holly Newell, Esq.
 7 INDIANA HORSE RACING COMMISSION
 1302 North Meridian Street, Suite 175
 8 Indianapolis, IN 46202

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1 CHAIRMAN DIENER: Let's go ahead and call our
2 meeting this morning to order and ask that you
3 silence the noise making type electronic stuff you
4 might have.

5 All Commissioners are here. We have a quorum.
6 And welcome back our court reporter, Robin.

7 (At this time the oath was administered to the
8 court reporter by Chairman Diener.)

9 CHAIRMAN DIENER: The first item on today's
10 agenda is Commission consideration of some proposed
11 rules. Those proposed rules deal with medication,
12 as well as the penalty point system for suspensions
13 for multiple violations by trainers. And just to
14 set the framework for those of you who might not
15 have been here to bring you up to date and the
16 Commission what we've been looking at.

17 Just as a reminder as an old warrior, I went
18 back and made the mistake probably of looking at
19 our statute. By statute in Indiana, a horse racing
20 in Indiana may not have any foreign substances in
21 its body period, except if allowed by a Commission
22 rule. So unless there is a rule allowing for
23 medications in a horse on race day, it's
24 prohibited.

25 The second thing is that same statute requires

1 the Commission in considering any rules, such as
2 what we're considering this morning, to first
3 consider any model rules that may have been adopted
4 by ARCI. Now, that's by statute. So that's our
5 responsibility. I just want to make sure that all
6 the horsemen understand what our statute requires
7 with respect to medications.

8 The substantive foundation for the rules that
9 we're looking at today have several components.
10 One is to ensure the health and safety of the
11 equine athlete to make sure that a horse does not
12 have any injuries masked by medications that
13 otherwise that horse would not be running. It's
14 also to ensure the safety of the driver and the
15 jockey on these horses.

16 And third, it's to ensure fairness and
17 integrity of our customers when they're wagering on
18 these races. There is some jurisdictions, Indiana
19 not being one of them, when a good handicapper has
20 to go into that state knowing that there's likely
21 to be some performance enhancing medications in a
22 horse; whereas, the average bettor is probably
23 unaware of that.

24 On April 2nd of last year, so that's a
25 little over a year ago, Racing Commissioners

1 International, RCI, approved 24 medication
2 substances in a model rule, called the controlled
3 therapeutic medications. On July 31st of last
4 year, RCI also approved a penalty point system for
5 trainers's suspensions for multiple violations.

6 On September 18th of last year, the
7 Commission's equine medical director distributed
8 both of these RCI model rules for comment to
9 stakeholders in Indiana's horse racing industry,
10 and comments were received.

11 On March 5th of this year, the proposed
12 rules were on the Commission's agenda for
13 consideration and action. However, there was a
14 change in our proposed rules from the RCI model
15 rules insofar as our proposed rules here in Indiana
16 did not contain the restrictions on times for
17 pre-race treatment, which are in the RCI model
18 rules. And as result of that, we thought it
19 appropriate to give stakeholders in Indiana an
20 opportunity to comment further on whether or not
21 the Commission should adopt the proposed rules,
22 which are here for consideration today.

23 Now, I can say myself personally as Chairman
24 of this commission, I believe it's very important
25 for this fragmented industry that there be uniform

1 national medication rules for the reasons that I
2 stated earlier. However, this Commission has its
3 own independent obligation to make judgments as to
4 whether or not the RCI model rules are appropriate
5 for Indiana.

6 Now, this Commission has provided two separate
7 times for receipt of written comments. And we have
8 received substantial written comments. As a result
9 of the most recent comment period, changes have
10 been made to our proposed rules which are here for
11 consideration this morning based upon those
12 comments.

13 This morning the Commission will provide an
14 opportunity for any supplemental or additional
15 verbal comments from anyone. However, because of
16 the extensive written comments that have been
17 received and provided for, an opportunity has been
18 given multiple times, those verbal comments are
19 going to be limited to ten minutes. During that
20 period, as is always the case, any member of this
21 Commission is free to ask any questions of anybody
22 who is going to be making that presentation.

23 After we've heard from everybody in the
24 audience today, we will then hear the comments and
25 recommendations of Commission staff, including the

1 Commission's equine medical director. Doctor
2 Demaree is here this morning. And just so you're
3 not under any misapprehension -- Stan, you've been
4 warned. None of the five of us, unless somebody
5 has been less than forthcoming, is a lab
6 technician, a veterinarian, or a research
7 scientist. We have to depend upon the expertise of
8 others. And we will rely upon that expertise.

9 And also just as an aside to comments this
10 morning, about three weeks ago, RCI proposed some
11 additional -- I'll say more about it later. They
12 have proposed changes to their model rules. The
13 addition of a couple of medications, change one of
14 the thresholds, and some other things.

15 We're not considering those today. Our equine
16 medical director will make those available. And
17 comments will be received from the industry before
18 this Commission considers any of those most recent
19 changes by RCI.

20 Who would like to make some additional
21 supplemental verbal comments that they haven't
22 already made in written form with the understanding
23 they are going to be cut off after ten minutes?
24 Speak now or forever hold your piece. As you come
25 to the podium, if you would please identify

1 yourself for the court reporter.

2 MIKE BROWN: My name is Mike Brown. I'm the
3 Executive Director of the Indiana HBPA. Last name
4 is spelled B-R-O-W-N.

5 Thank you for the opportunity to speak today
6 and for the input we've been able to give you in
7 writing in the past. I'm not any of those areas of
8 expertise you mentioned earlier. And I'm not an
9 attorney. So I'm going to be brief because I'm
10 establishing myself right now as a non-expert.

11 We are in favor of uniform medication
12 policies. We've said that from the beginning. We
13 just want to get it right, as you do.

14 We have some concerns about the RCI model
15 rules as they were passed. We have some concerns
16 about some of the research behind it. We have some
17 concerns about the lack of transparency as it
18 related to the research behind it. That doesn't
19 take away from the fact that we're in favor of
20 uniform medication policies.

21 We feel this concept is a good idea. We also
22 feel that RCI rushed into it. As of earlier this
23 month, they admitted as much in public meetings
24 when they did admit it.

25 It's important to keep in mind these are

1 therapeutic medications. Nobody is trying to gain
2 racing advantage by the use of these things. We
3 are trying to make sure our equine athletes are as
4 healthy as they can be.

5 We've been told that the rules have been
6 reviewed. And they reflect the input of racetrack
7 veterinarians. What we haven't really been told is
8 that they recommended many more medications. It
9 was pared down to 24. That has since grown to 26.

10 You should also keep in mind that although
11 we're calling this uniformity, this really isn't
12 uniformity across the country. States have taken
13 varying approaches to this. Some have kept
14 thresholds that existed in their statutes before
15 this was passed. Some of them haven't passed all
16 of this. Some of them haven't passed any of it at
17 all.

18 If we're going to adopt these rules, and we're
19 not arguing against it, we want to make sure that
20 Indiana pays close attention to endogenous dietary
21 and environmental substances. We all have to drink
22 the water. There's a lot in that water. There's a
23 lot in the food we eat. Our testing capabilities
24 have evolved to the place where you can test down
25 to the virtual equivalent of two drops in a

1 swimming pool. It's not hard to trigger a positive
2 if we are talking about down to the levels of
3 detection.

4 And although I said I'm not a lawyer and still
5 insist I'm not a lawyer, I want to suggest that
6 down to the level of limits of detection is going
7 to be a pretty imprecise term when this ends up in
8 court.

9 The RMTTC and RCI are working with the HBPA to
10 come up with a more sane, responsive policy. And
11 we urge the state of Indiana to pay close attention
12 at a bare minimum to allow that as a mitigating
13 factor.

14 We want to make sure that, as you said
15 earlier, we need to try to provide some clarity for
16 our horsemen. As near as I can tell, you're going
17 to potentially pass these rules today with a date
18 certain for implementation. So we are going to
19 start out our meet, which begins on May 6th, with
20 last year's rules essentially. At some point in
21 time soon after, I presume that the rules that you
22 pass today are going to be implemented. And then
23 at some time in the future, the version two rules
24 will be implemented.

25 That's tough for our horsemen. We hope you

1 will build in a sufficient transition time so we
2 don't end up with a lot of positives from people
3 who actually thought that they were doing the right
4 things.

5 Beyond that, I want to reiterate that we are
6 in favor of universal and uniform medication
7 policies. We think this is a step in the right
8 direction, and particularly the version yet to come
9 is a step in the right direction. And we look
10 forward to the opportunities to continue to give
11 our input to this. We appreciate the fact that we
12 are allowed to do that.

13 Unless anybody has any questions for a
14 non-expert, I'm going to go away and let maybe an
15 expert talk.

16 CHAIRMAN DIENER: Let me just ask one
17 clarifying question to make sure I understand it.
18 I've heard secondhand the national HBPA is in favor
19 of the RCI model rules period; is that correct?

20 MIKE BROWN: As amended.

21 CHAIRMAN DIENER: Any questions from
22 Commissioners?

23 COMMISSIONER WEATHERWAX: Not necessarily for
24 you but maybe when one of our veterinarians get up
25 to talk about because I'm familiar with how minute

1 traces can be in any kind of substance you want to
2 analyze. From the chemical industry and fertilizer
3 industry, maybe they can address those points you
4 bring up about positive detection at such minute
5 levels.

6 That's just a question that's way beyond my
7 pay grade, but it's a question you're bringing up.
8 I'm sure there's a great thought process.

9 MIKE BROWN: I think anybody who knows me
10 knows it's beyond my expertise. Thank you.

11 CHAIRMAN DIENER: Thank you, Mr. Brown. Any
12 additional comments from anyone?

13 THOMAS TOBIN: I think the speaker is working.
14 Thank you. First of all --

15 CHAIRMAN DIENER: Would you identify yourself.

16 THOMAS TOBIN: I was about to do that. Thank
17 you.

18 My name is Thomas Tobin. I'm a Professor of
19 Veterinary Science and a professor in the Graduate
20 Center of Toxicology at the University of Kentucky.
21 I've been there for more years than I care to
22 mention. The thrust of my research has been
23 medications, drugs, detection, various actions of
24 drugs in the horse.

25 And as I listened here, the first thing that

1 occurred to me is you folks are embarking on a
2 great experiment. You are going to introduce a
3 broad ranging group of tests across an industry
4 here. And it is, indeed, a great experiment.

5 One of the things, one of the reasons why it
6 is an experiment, is that you're asking a question
7 of nature. And the answer you will get back -- you
8 may have an idea of what you'll get back, but you
9 will almost -- the only way you will know that
10 you're not going to get surprises back is if you've
11 done it two or three times, and you've already seen
12 them, and there are no more surprises. So just
13 keep that in mind as you proceed.

14 You're bringing 24 thresholds for therapeutic
15 medications. The research basis for these
16 medications is not as clearcut as one might think.
17 In 1980 or thereabouts, actually probably '81, I
18 was approached by the Kentucky HBPA and asked to
19 come up with a regulatory cutoff for Lasix that
20 would enable us to get rid of the detection
21 problem. In other words, there would be a level in
22 plasma that would be a cutoff.

23 And we had the dose. We had the route of
24 administration, and we had the time. It was four
25 hours. So it was a simple experiment. I dosed 47

1 horses, I believe, and I looked at the
2 concentrations in plasma at four hours.

3 Now, if we're all familiar with the normal
4 distribution, it's a bell-shaped curve. And when
5 you pull this drug into the syringe, there's going
6 to be a little difference. You won't get the exact
7 same amount in every syringe. When you put it into
8 every horse, the bell-shaped curve will get a
9 little broader. But when the horses excrete the
10 drugs, not only does the bell-shaped curve get
11 broader, but it gets a tail. There are some horses
12 that don't excrete the drug as fast.

13 If I injected it into a large set of racing
14 commissioners, we'd probably get exactly the same
15 result. One or two of you would not metabolize the
16 drug as fast as the average. That's called a
17 skewed distribution.

18 So when we did the experiment, we looked at
19 the distribution. We adjusted mathematically, and
20 then you calculate the cutoff. And I could tell,
21 and I published -- second thing I did was I
22 published the whole thing in the literature. And I
23 said one in a thousand horses on this dose will
24 come in above 30 nanograms per ML. That was 30
25 years ago.

1 And when they put the rule into place, they
2 adjusted that up to give them a safety level. And
3 my colleague Doctor Sams pointed out if you screen
4 the urines for specific gravity first, you get rid
5 of most of the ones that have a low specific
6 gravity you're interested in. Then you look for a
7 those for a high Lasix. That's your positive.
8 It's a very good system.

9 But the point is we had a number of horses.
10 We published in the literature. And we could tell
11 from the mathematics roughly what the risk was for
12 any given individual.

13 When I came here to present the last time
14 before this meeting, I looked over the cutoffs, and
15 I suggested. And if you looked at the slide
16 presentation, I said flunixin was potentially a
17 problem. I looked at the paper that the RMTC had
18 proposed as the basis. And I hate to say this, but
19 they had no points in that particular paper at 24
20 hours. And I pointed to flunixin as a problem.

21 And if you look at version 2.1, April 17,
22 2014, you will see that the flunixin, the cutoff,
23 the threshold stayed the same, but the withdrawal
24 time has been moved out to 32 hours. And I knew
25 there was a problem with that because I had seen

1 experimental work that had been done that didn't
2 support that threshold. So I pointed to that in
3 what I was going to present to you the last time
4 here. And since then, the RMTTC has adjusted it.

5 Phenylbutazone. The cutoff was two, two
6 micrograms per ML. My colleague, the RMTTC, I
7 believe, did a study in Florida. They dosed at two
8 grams per horse, not milligram per kilogram. If I
9 was doing an experiment with you folks, I would
10 dose you at a milligram per kilogram basis. Some
11 of you are a little heavier than others.

12 They did the dose, X dose per horse. The
13 justification for that is that's what happens on
14 the racetrack, but you lose some of the definition
15 of the experiment. And my colleague Doctor Soma
16 analyzed the data and showed that about 10 percent
17 of the horses are going to come in above the
18 threshold. I made that point in the last
19 presentation I was going to make to you here.

20 And if you look at the April 17th cutoff,
21 you would see Phenylbutazone, the threshold -- my
22 apologies. There is no page number on it. But it
23 says the threshold is two micrograms per ml. They
24 didn't move the threshold on this one, but they
25 left the withdrawal time the same at 24 hours, but

1 they dropped the dose from 4.4, which is two grams
2 to a 1,000-pound horse, they dropped the dose
3 10 percent.

4 So they have adjusted their thresholds in the
5 last, what, six, eight, ten weeks. They have
6 adjusted them.

7 So the point I want to make is you are
8 embarking on an experiment. You're not going to
9 know about the answers. You think you know where
10 you're going, but you don't know precisely where
11 you're going. So you need to incorporate a good
12 phase-in period where you are communicating with
13 the horsemen. You indicate to them what you have
14 in terms of levels and how they relate to the doses
15 so that both you and the horsemen know exactly what
16 is going on. That's the essence of experimental
17 work.

18 Let me look briefly through what I have here.
19 And the reason we are doing this is that we don't
20 have good published experimental data on the
21 relationship between the threshold, the dose, and
22 withdrawal time on many of the medications. Not
23 unusual but that's the fact. And you are indeed
24 embarking on an experiment.

25 I'm going to check my notes here. I told you

1 about Lasix, and how we did it.

2 CHAIRMAN DIENER: While you're checking your
3 notes, correct me if I'm wrong, but our proposed
4 don't have any withdrawal times in the rules.

5 THOMAS TOBIN: That may be correct. You have
6 simply thresholds and no withdrawal times or
7 guidelines whatsoever for horsemen; is that
8 correct? I haven't seen your latest rule.

9 CHAIRMAN DIENER: Well, I just assumed you
10 were familiar with our rules in your presentation
11 this morning, but our rules have no withdrawal
12 times.

13 THOMAS TOBIN: So they are simply thresholds.
14 End of story. It would be appropriate to indicate
15 to horsemen what your best estimate of a withdrawal
16 time guideline is. It's like setting up, posting a
17 speeding limit, but you have, in essence, posting
18 the speed limit but having no indications for the
19 horsemen whether it's going to exceed it or not.
20 But I stand corrected.

21 CHAIRMAN DIENER: I interrupted you, I'm
22 sorry. You were going through your notes.

23 THOMAS TOBIN: You are quite correct if there
24 are no withdrawal time guidelines. Are their
25 dosage suggestions?

1 CHAIRMAN DIENER: Yes, there are.

2 JOE GORAJEC: May I?

3 CHAIRMAN DIENER: Mr. Gorajec.

4 JOE GORAJEC: We don't enforce withdrawal
5 times. Our withdrawal times are guidelines.
6 They're not the New York model where it's
7 restricted times. And because we don't enforce
8 withdrawal times, they are not part of the
9 regulation. Having said that, we provide guidance
10 to the horsemen on withdrawal times that will
11 correspond to the thresholds that are in our rules.

12 So the availability for horsemen on our
13 website will be withdrawal times that correspond to
14 the threshold levels that are in our rules. As far
15 as the dosing suggestions, I believe those will be
16 consistent with or the same as the suggestions that
17 are provided in the RCI document with regard to
18 having the dosage suggestion, the withdrawal time
19 as a guideline, and then the thresholds in our
20 rules.

21 THOMAS TOBIN: If I understand it correctly
22 then, you have thresholds, you have recommended
23 dosages, and you have a withdrawal time guideline
24 that is not incorporated in the rule, but is, in
25 essence, the RCI withdrawal time guideline.

1 JOE GORAJEC: Yes, unless our equine medical
2 director would determine that there would be a more
3 appropriate withdrawal time or dosing requirement.

4 THOMAS TOBIN: Yes, because the question
5 simply is: What is the scientific basis for the
6 withdrawal time guideline threshold relationship?
7 And that is unclear at the moment for many
8 medications. And that's why I said you folks are
9 embarking on an experiment. And embarking on an
10 experiment, you keep in mind that you are going to
11 learn. You don't want to learn at the expense of
12 the industry and the horsemen. So the equine
13 medical director has a very challenging task.

14 CHAIRMAN DIENER: Let me try to cut through
15 from a layman's standpoint. So what are you in
16 favor of or recommending? Are you recommending the
17 Commission do nothing?

18 THOMAS TOBIN: No, I believe it's appropriate
19 for the Commission to proceed but to keep in mind
20 that there are unknowns as we go forward, and that
21 you have a phase-in period. I think that's
22 basically what Mr. Gorajec addressed -- excuse me,
23 my apologies, Gorajec. That's what you addressed
24 when you said that the equine medical director
25 would review the circumstances and adjust them as

1 appropriate. In other words, you expect
2 adjustments may be required. That's a possibility.

3 JOE GORAJEC: Yeah, adjustments can be on
4 guidelines. Adjustments won't be on rules unless
5 the Commission takes them up and passes them.

6 THOMAS TOBIN: I understand that.

7 CHAIRMAN DIENER: Any comments or questions?
8 Let me just paraphrase, if I can, my initial
9 thoughts. The proposed rules today are simply
10 that, proposed rules for our consideration. What
11 RCI is doing with respect to medications is a
12 dynamic situation. It's going to be adjusted from
13 time to time.

14 As I indicated earlier, there's a couple new
15 medications that have been added. We will get
16 comments from the industry and see where we go from
17 there. These are not permanently engraved in
18 stone. The whole purpose of this is to get
19 feedback, fine tune, and make adjustment as this
20 goes on. But in the interim, we'll have some
21 uniformity in applications of threshold levels
22 consistent with many other states, consistent with
23 what we believe to be the RCI model rules. But
24 these will be fine tuned from time to time.

25 Any other questions? Thank you very much.

1 Appreciate it. Additional comments from the
2 audience?

3 JACK KIENINGER: My name is Jack Kieninger,
4 K-I-E-N-I-N-G-E-R, president of Indiana
5 Standardbred Association.

6 Just wanted to bring to the Commissioners's
7 attention, I know it's in the literature that was
8 submitted, that there is a difference between the
9 breeds. And some of the jurisdictions have made
10 adjustments for the Standardbreds as opposed to the
11 Thoroughbreds.

12 It's kind of like, you know, I own a car, 2005
13 Buick LeSabre, and there's an Indy car. And they
14 are both cars, but they are totally different.
15 They are built for different things. That's kind
16 of the way the Standardbreds and Thoroughbreds are.
17 They get four or five starts a year, six, seven
18 starts a year. They're happy. If we don't get at
19 least 20 starts a year we're not happy either.

20 These are medications that our horses need on
21 a weekly basis, not for enhancement or anything but
22 just to keep them healthy, which is what you want
23 to do is keep them healthy. Keep them consistent
24 so that when you look into the programs and you see
25 the past performances, they are going to be

1 consistent.

2 I just wish that the Commission would take a
3 moment and think about the difference between the
4 two breeds because there is a big difference in how
5 they race. So that's basically all I have to say.
6 Any questions?

7 CHAIRMAN DIENER: Questions for Jack? Thank
8 you very much.

9 JACK KIENINGER: Yes, sir. Thank you.

10 CHAIRMAN DIENER: Further comments? Speak now
11 or forever hold your piece. Get your comments in
12 now. I don't want anybody going out whining to the
13 newspapers that they didn't get a chance to say
14 what they wanted to say.

15 I'd like to hear now from both our equine
16 medical director first, if I could please -- Doctor
17 Demaree is here -- to see what her recommendations
18 are to the Commission. She's reviewed the
19 comments. Unlike the five of us up here, she
20 actually knows what she's talking about. And then
21 I'll let Mr. Gorajec wrap it up with any staff
22 recommendations.

23 Good morning, Doctor Demaree.

24 DOCTOR DEMAREE: Good morning. Thank you. I
25 would like to start by reminding or making a

1 statement about what our mission statement is. And
2 to me, this really drives home the purpose of why
3 we are recommending the implementation of these
4 medication rules. We are charged with ensuring
5 that pari-mutuel wagering on horse races in Indiana
6 will be conducted with the highest of standards and
7 the greatest level of integrity. And I believe
8 that these medication rules will indeed enhance the
9 integrity of racing in the state of Indiana.

10 To Mike Brown's comments, I did find, I
11 believe it was Doctor Tobin's paper, and he can
12 correct me if I'm wrong, regarding trace amounts of
13 flunixin that are in the environment both in lagoon
14 water around racetracks and in the dirt. I figured
15 in order for a horse to get a therapeutic dose of
16 flunixin, they would have to consume 2500 liters of
17 water that's contaminated at the level that he
18 found when you take an average level. So I don't
19 believe that we will, through contamination alone
20 in some of these environmental factors around the
21 racetrack, get levels that will be detectable given
22 the current thresholds that are in place.

23 I also don't believe that we are jumping into
24 this. If we want to go back historically, the
25 corticosteroid thresholds were first adopted by the

1 RMTC board in late December of 2012. Early 2013, I
2 was charged with taking a look at it. I wasn't
3 comfortable with the data at that time. We decided
4 not to adopt those thresholds then.

5 Since then, a lot of very good research and
6 data has been made available. I don't believe we
7 would be in a situation where we would have a lot
8 of unnecessary positives given the way our
9 veterinarians are currently practicing. Also, I
10 have spoken with each of them individually as I
11 have licensed them this year.

12 They are very aware of what we are planning on
13 doing with the new medication changes, how to
14 practice within our guidelines, and what our
15 guidelines are. I have also counselled them on
16 flunixin. We will be changing our withdrawal
17 guidelines to reflect a 32-hour withdrawal time for
18 flunixin.

19 With that said, are there any additional
20 questions?

21 COMMISSIONER PILLOW: I've got a question,
22 Doctor. The previous speaker mentioned that this
23 was an experiment. And can you elaborate on are we
24 experimenting? Are we?

25 DOCTOR DEMAREE: Sure. And while it might be

1 an experiment, I would gather that also the ban on
2 anabolic steroids was also an experiment. We were
3 one of the first states to implement that ban is my
4 understanding. And Mr. Gorajec can speak further
5 to that point. I can also say, you know, an
6 experiment we undertook was decreasing the Bute
7 threshold recently to the two microgram level from
8 the five microgram per ml level that's allowable.

9 And we did not see the problems that we were
10 expecting to see. We actually had far fewer Bute
11 overages after implementation of the lower
12 thresholds. We put these thresholds in place to
13 ensure the integrity. It was found and discussed
14 by several equine medical directors that having a
15 five microgram per ml level of Bute was actually
16 inhibiting them from doing proper pre-race
17 examinations and putting these horses at risk
18 during the race.

19 So we have since lowered the threshold. We
20 can do better pre-race exams that are more
21 representative of what is in that horse's system at
22 the time of the race. And we can have fewer
23 breakdowns. I think all of these changes in some
24 manner have been an experiment, and they have been
25 successful experiments. And I fully believe that

1 this should also be pretty successful.

2 COMMISSIONER PILLOW: Okay. Thank you.

3 CHAIRMAN DIENER: Any other questions from
4 Commissioners?

5 I have one. Help me again, Standardbred,
6 Thoroughbred. I'm not, I can't qualify myself as
7 anything on this. I'd say a horse is a horse is a
8 horse.

9 JOE GORAJEC: Of course.

10 CHAIRMAN DIENER: Standardbreds run more often
11 because that's the business economics of the owner
12 and the trainer. And as far as difference among
13 breeds, all I could ever determine is the
14 difference in the gait and somebody's in a sulky
15 rather than mounted. I don't understand why
16 there's a difference in the breeds that would
17 justify a difference in threshold levels for
18 medications.

19 Can you help us out a little bit on that one?

20 DOCTOR DEMAREE: I would agree with all of
21 those statements, Chairman.

22 CHAIRMAN DIENER: No, don't. I want your
23 judgment, please.

24 DOCTOR DEMAREE: And that is my judgment. The
25 business model is the biggest difference between

1 the two breeds and the gaits, as you made note.
2 Also interestingly, many of the research, a lot of
3 the research, and I'm sure it's not all -- and I
4 haven't added it up, but I would hazard a guess
5 that it's probably more than fifty percent of the
6 research done on medication has actually been
7 performed on Standardbreds because Standardbreds
8 are easier to work with in a research environment.
9 They are more mild tempered. They tend to do
10 better.

11 And so to that extent, you know, they've, we
12 also have some research on Thoroughbreds and some
13 in all breeds. So there is no difference if you
14 look at the pharmacokinetics or the differences
15 would be so mild and minute that they are already
16 taken into consideration with the current
17 thresholds that are in place. Because we are
18 testing and doing the research on such small
19 numbers of horses due to limited funding and due a
20 limited availability of horses for research for
21 these purposes, the standard deviation is more than
22 what would be necessary in the majority of these
23 cases. So, you know, when they're considering
24 thresholds, they're saying, well, the majority of
25 horses will clear at this threshold. But because

1 we have such few numbers of horses, and we know
2 there are variations and differences within the
3 population, we will set a threshold here much
4 higher. Within -- it's all statistically
5 significant, and they do the math, but it is a
6 higher threshold to encompass 95 percent of the
7 animals will be within those thresholds.

8 And like Doctor Tobin said, they've adjusted
9 some of the dosages. They've adjusted some of the
10 time frames. Our rules for nonsteroidals say the
11 labeled dose at least 24 hours. It never said give
12 it at 24 hours at the labeled dose. It said at
13 least 24 hours out. You may have to give it
14 further out. You may have to give a smaller dose.
15 That was always built into our rules and
16 regulations.

17 CHAIRMAN DIENER: Lastly, for us, is your
18 recommendation that we adopt the proposed rules as
19 modified reflects recent comments or do you have a
20 different recommendation as to what the Commission
21 should do today?

22 DOCTOR DEMAREE: My recommendation with the
23 updated version -- we did get the comments. I did
24 review the comments. We have made some substantive
25 changes based on those comments. So as you see the

1 changes that have been highlighted, I would suggest
2 or my recommendation would be to adopt them as
3 amended based on these comments with one additional
4 change. Under "Sample" defined for both the
5 harness and the flat racing, where it says all
6 samples or it says "all cleared samples," the last
7 sentence, if it could be rechanged to say "any."

8 COMMISSIONER WEATHERWAX: Say what?

9 DOCTOR DEMAREE: Change the word "all" in the
10 last sentence in "Sample" defined to "any." So it
11 will read "any cleared sample."

12 CHAIRMAN DIENER: Okay. With that one change,
13 you recommend that we go forward and adopt these
14 rules today?

15 DOCTOR DEMAREE: Yes, sir.

16 CHAIRMAN DIENER: Further questions of Doctor
17 Demaree? Mr. Gorajec, where do you come out on
18 this. You've had a chance to hear some additional
19 comments. You've reviewed all these comments in
20 the past. And you're familiar and an active
21 participant in RCI. So what do you suggest?

22 JOE GORAJEC: I would recommend, as I did in
23 the March meeting, that the Commission approve the
24 rules as presented. I believe Doctor Demaree
25 tweaked a few rules that you see highlighted in

1 your packet based on comments that she's received
2 since the March meeting. As I said, I recommend
3 that the Commission adopt these rules, adopt them
4 as is without deviation.

5 I would like to make two other points. And
6 one of them is the notion that this is an
7 experiment. I think a better description of this
8 would be it's a work in progress. The key word is
9 progress. This is progress. And this is what
10 progress looks like.

11 If the Commission would choose not to adopt
12 these rules, then on all these drugs, which we
13 previously did not have thresholds for, we would
14 not have any thresholds. Commissioner Weatherwax,
15 you mentioned concerns about positive tests may be
16 in small minute quantities. To the extent that a
17 drug is on this list, and there is no threshold,
18 then a horseman runs the risk of having a positive
19 called on him for a drug that has been demonstrated
20 by the research of the RMTTC and approved by the RCI
21 not to have pharmacological effect on the horse.

22 So one of the things that hasn't been
23 mentioned is that over a period of time, the
24 horsemen as a whole have been clamoring for years
25 for guidance in thresholds. And now, they got

1 guidance, and they got thresholds. The guidance
2 may not be perfect. The number of drugs that are
3 listed may not be complete, but as I said, it's a
4 work in progress.

5 The option of doing nothing is having the
6 horsemen run the risk of getting positive tests
7 that need not be called positives. And, Chairman
8 Diener, as you mentioned, should the Commission
9 pass these rules, we will be circulating, Doctor
10 Demaree will be circulating for comment some
11 changes that were made earlier this month at the
12 RCI convention that would make these rules even
13 better.

14 The other thing I would like to bring up is
15 the timing. In a perfect world these rules would
16 have been passed well before the commencement of
17 either race meet. That didn't happen. We've got a
18 race meet in progress. We have another one that's
19 going to open. Indy Downs is going to open their
20 Thoroughbred-Quarter Horse meet next Tuesday.

21 The rules the Commission adopts are effective
22 when our office files them with the Secretary of
23 State. When we file them with the Secretary of
24 State varies. It's usually within a couple, three
25 days. Sometimes it's the next day. Sometimes it

1 might be a week later, but we get to it pretty
2 quickly.

3 What I would propose on these, should the
4 Commission approve them, is to file them with the
5 Secretary of State where they would become
6 effective on May 15th, meaning the races that
7 take place on May 15th and after. Races that
8 take place on May 14th and prior would be run
9 under the current drug rules. That way, Doctor
10 Demaree can do her best to communicate to the
11 horsemen and veterinarians when the shift is going
12 to be because we agree that we don't want to put
13 the horsemen in harm's way where they're operating
14 in good faith with one set of rules, only to find
15 out that they're being, another set of rules are be
16 enforced.

17 It's important to do this sooner rather than
18 later, especially for the Thoroughbred meet because
19 by May 15th, most of the horses that are going to
20 race at Indiana Downs haven't started yet. So it's
21 better to get the majority of the horses that are
22 going to compete on board with the new rules before
23 they even race. But the horses that would race,
24 like I said, on May 14th and prior will be
25 considered racing under the current regulations.

1 And that's all my comments, but I will be glad
2 to respond to any questions if there are any.

3 CHAIRMAN DIENER: Questions for Joe?

4 COMMISSIONER SCHAEFER: Joe, maybe Doctor
5 Demaree can better answer this question, but
6 May 15th seems a little quick to me. I'm just
7 talking about a few days here, but some of these
8 withdrawal times are 14 days. And you have to have
9 some time to notify some of the trainers about the
10 rules. Am I correct?

11 DOCTOR DEMAREE: Taking that into
12 consideration, my suggestion -- and I haven't
13 talked to Mr. Gorajec, but I agree with what he
14 said -- that the rules should go into effect
15 immediately, but the lab, as far as their testing
16 for the drugs that have that withdrawal time, they
17 have until May 15th before they'll start testing
18 at those extended thresholds. So there won't be
19 any inadvertent positives due to the shift. I
20 believe that's basically what you said.

21 JOE GORAJEC: Yeah, there are two ways of
22 arriving at really the same point. My preference
23 would be to have the rules filed on the
24 15th because I hate to be in the position where
25 we are not actually enforcing the rules that we

1 have on the books. So if we put the rules on the
2 books May 15th or another day, but if we put the
3 rules on the books May 15th and let everyone know
4 now that's when it's going to happen, then they
5 should be able to make the adjustments with regard
6 to medicating their horses that are going to race
7 May 15th and after.

8 COMMISSIONER SCHAEFER: I misunderstood. I
9 thought you were going to put it into effect now
10 and enforce it May 15th.

11 JOE GORAJEC: My preference would be not to do
12 that.

13 CHAIRMAN DIENER: Let me ask you, Lea. Would
14 we be filing rules next week but with a proposed
15 effective date of May 15th or would we simply not
16 file until later?

17 MS. ELLINGWOOD: You can do it both ways.

18 CHAIRMAN DIENER: That's what I thought.

19 MS. ELLINGWOOD: You can file an emergency
20 rule that has a prospective future effective date
21 or I can wait until the 15th and file it. The
22 net effect is the same.

23 CHAIRMAN DIENER: If we would file this soon
24 with the proposed effective date, the world at
25 large would know what our rules are.

1 MS. ELLINGWOOD: Yes.

2 CHAIRMAN DIENER: I mean outside Indiana.

3 MS. ELLINGWOOD: Right. They are posted.
4 They are filed with the Legislative Service Agency.
5 The Legislative Service Agency posts the rules on
6 their website. So you would be able to access it
7 online that way.

8 CHAIRMAN DIENER: I'm just thinking of
9 ship-ins or other states or what have you. I would
10 like them to be aware of our actions as soon as
11 possible. Whereas, if we sit on them and file them
12 on May 12th or something, other than Indiana
13 horsemen, nobody is going to know about it.

14 JOE GORAJEC: Either way, we will do, we will
15 give our best effort to spread the word as widely
16 as possible immediately with regard to the
17 beginning date of the new rules.

18 CHAIRMAN DIENER: Mr. Schenkel.

19 COMMISSIONER SCHENKEL: This isn't for Doctor
20 Demaree so I'll let you off the hook. I want to
21 talk about or question about the penalty portion of
22 this because we have not talked about that. I
23 think I know the answer. But there was some
24 confusion raised by a couple of the written
25 comments I saw about the language in some cases

1 stated "shall" in the model. We used the term
2 "may" in some cases. Again, I think I know the
3 answer to that, but I would like to hear from you,
4 Director Gorajec or Miss Ellingwood as to how,
5 where we are on that.

6 JOE GORAJEC: I'll take first crack at it, and
7 then Lea can follow up. It is that one of the
8 things that we were concerned about is, you know,
9 we all know what "shall" means. And we all know
10 what "may" means. And we always look, and we are
11 obligated to look when we have a positive test with
12 regard to mitigating circumstances or exacerbating
13 circumstances.

14 This is a rule that's really not going to be
15 utilized very often just because the nature of how
16 it's written. There can be very few people that
17 fall, whose repetitive nature in violations fall
18 under the rule. Having said that, when we call a
19 positive test, it might be a positive test for a
20 relatively benign drug that calls for a relatively
21 small penalty. But based upon other points, that
22 person might have might trigger a significant
23 suspension. And that's okay.

24 But the fact of the matter is we need to look
25 at the facts surrounding the positive test. And we

1 might determine that there is, there is a positive
2 on a drug that the way the drug got in the horse's
3 system, the trainer is completely innocent, so to
4 speak, but will have to call a positive regardless
5 just because the horse raced with that drug in its
6 system.

7 If we have a "shall," then we've got to do
8 what we've got to do. If we have a "may," then we
9 can consider it. We did that in deference to the
10 horsemen. Like I said, this isn't going to come up
11 often, but the rule calls for some significant
12 sanctions when the points trigger the penalty. You
13 know, we just want to make sure it's deserved. If
14 it is, then we'll do it. And if it's not, we'll
15 have a way to reconsider it.

16 COMMISSIONER SCHENKEL: Thank you.

17 CHAIRMAN DIENER: Mr. Pillow.

18 COMMISSIONER PILLOW: Joe, this might be for
19 you. What is the appeals process? I'm sure it
20 might be in here somewhere that I haven't seen. So
21 if they test positive, we go through the penalty
22 phase. Where is the appeal phase for -- and I saw
23 in here where there could be elevated readings for
24 any number of reasons; something they ate or water
25 they drank.

1 JOE GORAJEC: Typically what happens is
2 there's a positive test. One of the things, one of
3 the rules that we have is we have a split sample
4 program that the trainer can avail themselves to,
5 the owner or the trainer can avail themselves to.
6 So not only is the sample being analyzed by the
7 laboratory that we select, the primary lab, but we
8 have a few laboratories that we would refer to as a
9 split sample laboratories that a sample -- okay.
10 The sample from the same horse can go to that other
11 laboratory for confirmation. And only if both labs
12 confirm the same drug is a positive test called.
13 So the horsemen have that built in.

14 Then there's a penalty associated with
15 whatever drug it is, depending on the drug. The
16 trainer and owner can accept that penalty or they
17 can ask for a hearing. If they ask for a hearing,
18 they will have the hearing. They would have it
19 typically in front of the Board of Stewards or in
20 Standardbreds we call them judges. And whatever
21 the judges decide is what the ruling will say and
22 what the penalty will be.

23 But the person who is subject to that ruling
24 does have the right to appeal. We have a whole
25 section in our rule book that's due process. And

1 we do our due process, and Lea can speak to this in
2 better detail than I can, but in accordance to the
3 Indiana, what do you call it, AOPA.

4 CHAIRMAN DIENER: Administrative Orders and
5 Procedures Act.

6 JOE GORAJEC: So the due process they would
7 get in front of us would be similar to the due
8 process that any person penalized by any state
9 agency would get. Okay. That appeal typically
10 goes to an administrative law judge that the
11 Chairman appoints.

12 That administrative law judge will have
13 another hearing. That administrative law judge
14 will make a recommended, have an order, a
15 recommended order, findings of facts, conclusions
16 of law. Those are presented to the Commission for
17 your consideration. And then the Commission
18 decides.

19 And then after that, if the person, the
20 trainer or the owner, doesn't like what the
21 Commission decided, after not liking what the
22 judges decided, and the administrative law judge,
23 and the Commission decided, they can take it to
24 court. And that has happened. And I think someone
25 will correct me if I'm wrong, but we've, this

1 agency has never not prevailed in court.

2 COMMISSIONER PILLOW: Now is the participant
3 still allowed to participate in the races while
4 this is all going on?

5 JOE GORAJEC: It depends. It depends on the
6 circumstances. It depends on what the judges
7 order. Typically, if the violation is relatively
8 minor, but most of them aren't if they're going to
9 be appealed. Something significant is at stake.
10 If it's relatively minor, that person in all
11 likelihood, if he or she was suspended will be able
12 to participate. If the person has been suspended
13 by us, and we believe it is what we would refer to
14 as quote an integrity violation, then whatever
15 court or whatever person has that jurisdiction,
16 whether it's the stewards or whether it's the
17 administrative law judge or whether it's the court,
18 we would typically speak against the stay of the
19 penalty because we've already determined that that
20 person should be suspended. We believe their
21 participation in racing would be against the best
22 interest of racing, but it's not our decision to
23 make. It's the recommendation, the position we
24 would take. It would be up to the judge, the
25 administrative law judge, or the court to decide

1 whether to stay that or not.

2 CHAIRMAN DIENER: Further questions of Joe? I
3 have, I'm always looking for expertise. And I know
4 I'm putting this person on the spot, but our senior
5 steward at Indiana Downs for our flat racing meet
6 just came back from being a steward at Oaklawn.

7 And I don't know, Stan, I mean, you're free to
8 say I don't have any comments, what do you think
9 about what we are going to do or thinking about
10 doing today? I know I'm putting you on the spot.
11 I should have warned you. When somebody has as
12 much expertise in the racing industry, I would just
13 like to hear from him.

14 STAN BOWKER: Mr. Chairman, I appreciate the
15 opportunity to speak. My name is Stanley Bowker,
16 B-O-W-K-E-R. I'm senior steward for the state of
17 Indiana on Thoroughbreds and Quarter Horses.

18 Only thing I would like to add because I
19 completely agree with the program that's being set
20 up. I have been involved in some of the things
21 that set up this program. And I'm very much in
22 favor of it. But I would like to make a couple of
23 comments on things that's come up.

24 The stewards always meet with the horsemen
25 before the meet starts. We have scheduled our

1 meeting for next Monday. We haven't advertised it
2 yet because we wanted to wait and see where you
3 went with the medication rules because that will be
4 an important part of that meeting with the
5 opportunity to present the information to the
6 horsemen so that they know what they're facing,
7 what is expected as far as stewards are concerned.
8 So that will happen as far as we're concerned.

9 I think Doctor Angela will be meeting with the
10 vets and things like that. So there's going to be
11 a lot of meetings going on here in the next few
12 days in order to get the information conveyed to
13 the horsemen and participants in racing. They are
14 going to go into it with an understanding of what
15 is expected, what the rules say, what the effective
16 date is if it's different than when we start.

17 That part is in the process. We just need the
18 final touches here to make sure we have the right
19 information conveyed to them. So that's underway
20 as well.

21 As far as the rules are concerned themselves,
22 I wholeheartedly agree with everything that's been
23 done here. One of the things I do in addition to
24 being a steward is I'm also involved in the
25 accreditation program for stewards and judges.

1 Part of what I do -- I was chairman of that
2 committee when it first started for the first six
3 years. I'm still on the board, but I have stepped
4 down as the chairman. But I'm still involved in
5 the CEs, and I teach at the CE schools. One of the
6 things that is on my plate to teach at the CEs is
7 the enhanced penalties that are part of this
8 program. So I have a very good understanding of
9 how that works, and I will be teaching that. I've
10 already had one session with the stewards and
11 judges anyway.

12 So people say that this is being rushed to
13 judgment. I can tell you that typically racing
14 takes a long time. That's part of the problem with
15 racing. That the problem can pass you by, and you
16 get so far behind. This is one area where racing
17 is stepped up. They've tried it, and they've had
18 good people participating in the various committees
19 and involvement here. There's been a lot of study,
20 a lot of talk going on in the last two years. It's
21 not something that just happened two or three days
22 ago or two or three months ago. It was a couple
23 years. Mr. Gorajec was involved in some of those
24 discussions as well.

25 It's ready to be put in place. There are a of

1 jurisdictions. It takes a while. I was involved,
2 for example, when the steroid rules were put into
3 place. That was something that was new. At that
4 time, Chairman, I was executive director of the
5 commission in Virginia at that time. And my
6 chairman was also chairman of RCI. And we went
7 around the country to a lot of racing commissions,
8 as with you, to work with them to get these rules
9 into place. And they were put into place very
10 quickly. And, you know, that's worked out very
11 well too.

12 So we think, I think, Mr. Gorajec used the
13 right word. It's a work in progress. You are
14 going to be seeing some of this come up from time
15 to time over the next couple of years as things get
16 refined and, hopefully, will be made better, but we
17 have a starting point. This is a good place to be
18 right now. And I certainly would suggest to you or
19 recommend to you that you approve them as they have
20 been presented to you.

21 CHAIRMAN DIENER: I appreciate your comments.
22 I do apologize for not forewarning.

23 STAN BOWKER: I apologize for the phone. I
24 usually do a little better job getting it turned
25 off.

1 CHAIRMAN DIENER: We're even now. Thank you
2 very much. We've had good discussion, comments,
3 what have you.

4 COMMISSIONER PILLOW: The gentleman.

5 CHAIRMAN DIENER: Short. Let's go.

6 THOMAS TOBIN: I just wanted to join
7 Mr. Gorajec, his description as a work in progress.
8 It has aspects of the work I've done, but work in
9 progress is a correct and appropriate description.
10 And keep that in mind going ahead.

11 CHAIRMAN DIENER: Thank you. Let me go ahead
12 and make a motion. And we will have some
13 additional discussion, comments, whatever but just
14 get something on the table.

15 I would like to make a motion to go ahead and
16 approve the proposed rules that are before us this
17 morning with the one additional change of changing
18 the word "all" to "any," and that these proposed
19 rules include both controlled therapeutic
20 medications and penalty points for multiple
21 violations. And I would also propose that the
22 rules be filed as soon as practical with an
23 effective date of May 15th, 2014. And if there
24 is anybody willing to second that, we can have some
25 discussion and see where we go.

1 COMMISSIONER SCHAEFER: Second.

2 CHAIRMAN DIENER: Further discussion,
3 comments, issues? All those in favor of the
4 motion, say "aye."

5 THE COMMISSION: "Aye."

6 CHAIRMAN DIENER: Opposed, same sign.

7 (No response.)

8 CHAIRMAN DIENER: Motion carries unanimously.
9 I overshot. I need to go back. We need to approve
10 the minutes of our March 5, 2014 meeting, which has
11 been distributed. Additions, corrections, anyone?

12 COMMISSIONER SCHENKEL: Move acceptance.

13 COMMISSIONER WEATHERWAX: Second.

14 CHAIRMAN DIENER: All in favor?

15 THE COMMISSION: "Aye."

16 CHAIRMAN DIENER: Thank you for my oversight.
17 While not on the agenda, I want to reiterate the
18 Commission's equine medical director will be making
19 available the proposed additional changes to the
20 RCI model rules that were approved by RCI, I
21 believe, on April the 8th of this year to the
22 industry here in Indiana. And we will receive
23 comments from the industry, or anybody else who
24 wants to make comments, on or before Friday,
25 May 30th, 2014, after which the Commission at its

1 next meeting will consider proposed changes to our
2 rules to reflect both RCI's rules, as well as
3 comments we've received from the parties.

4 Looking for a morning break now? We'll keep
5 going.

6 Agenda item number two. I'm sorry, my
7 understanding of some these changes that I just
8 mentioned that RCI has made that we will be
9 listening to and considering, they are going to add
10 Albuterol, Isoflupredone as controlled therapeutic
11 medications. There is going to be a change in the
12 threshold for ketoprofen. And there is going to be
13 some changes in testing and others. But we will
14 consider all those and ask for your input and
15 comments.

16 Agenda item two, review of the Commission
17 rulings from February, March of this year. Miss
18 Newell.

19 MS. NEWELL: Yes, you see there are only four
20 in front of you, but there will be a lot more
21 likely the next time we meet. If you have any
22 questions about these four, I will be glad to hear
23 them.

24 CHAIRMAN DIENER: Any questions from the
25 Commission about the ruling log? Hearing none, we

1 will move on. Thank you.

2 Agenda item three, approval of the settlement
3 agreement between United Tote employee Darryl
4 Kendall and Commission Staff. Miss Newell.

5 MS. NEWELL: The settlement agreement, as you
6 said, is between staff and Darryl Kendall. Mr.
7 Kendall is a United Tote employee. You will
8 probably recall from our last meeting that United
9 Tote had some issues in 2013 with licensing or
10 unlicensed employees, I should say. The Commission
11 ratified our settlement agreement with United Tote
12 at that meeting.

13 Mr. Kendall worked for United Tote for the
14 duration of 2013. And he was unlicensed for more
15 than ten months. We worked with him to reach an
16 agreement wherein Mr. Kendall would pay a \$500
17 fine. At this time we would request approval of
18 the settlement agreement.

19 COMMISSIONER SCHAEFER: So moved.

20 COMMISSIONER SCHENKEL: Second.

21 CHAIRMAN DIENER: All in favor?

22 COMMISSIONER PILLOW: Question? Does he have
23 his license now?

24 MS. NEWELL: He does. That was taken care of
25 immediately.

1 CHAIRMAN DIENER: All in favor?

2 COMMISSIONER SCHAEFER: "Aye."

3 COMMISSIONER SCHENKEL: "Aye."

4 COMMISSIONER WEATHERWAX: "Aye."

5 COMMISSIONER PILLOW: "Aye."

6 CHAIRMAN DIENER: Show me abstaining from
7 that. I have a personal problem with tote
8 employees not being licensed when they should have
9 been licensed. I don't care about the settlement.
10 I will stay out of this one.

11 Agenda item number four. Consideration of
12 emergency rules regarding medication and foreign
13 substances. Miss Ellingwood.

14 MS. ELLINGWOOD: At the last Commission
15 meeting, the Commission considered a petition to
16 remove the definition of foreign substance for
17 Thoroughbreds. The Commission at that time denied
18 that petition. But during the course of the
19 conversation, staff was asked to submit a
20 definition of foreign substance for Standardbreds
21 to replace the one that expired at the end of the
22 last year. This proposed rule does that.

23 The rule also adds a reference to the
24 statutory definition of foreign substance to our
25 medication administrative rules. At the last

1 meeting, I expressed some questions about the
2 applicability of the statutory definition of
3 foreign substance. So this addresses that concern
4 as well.

5 Finally, the rule repeals an outdated
6 medication rule. The rule that we are recommending
7 be repealed had been scheduled to expire at the end
8 of last year but had been, but that expiration date
9 had been extended by the governor's office.

10 Unfortunately, as a result that means we've got two
11 rules on the same topic that has a conflict.

12 So, accordingly, staff is recommending that
13 the Commission vote to adopt these rules as an
14 emergency so that that change can go into effect as
15 soon as the rule is filed.

16 CHAIRMAN DIENER: Questions from the
17 Commissioners? Mr. Hartman, any questions or
18 supplemental comments?

19 JIM HARTMAN: No.

20 CHAIRMAN DIENER: Hearing none. My
21 recommendation motion is we approve the proposed
22 emergency rules regarding medication and foreign
23 substances.

24 COMMISSIONER WEATHERWAX: Second.

25 CHAIRMAN DIENER: All in favor?

1 THE COMMISSION: "Aye."

2 CHAIRMAN DIENER: Motion carries unanimously.
3 Item number five, Mr. Keeler.

4 MR. KEELER: Thank you, Mr. Chairman, Members
5 of the Commission. My name is John Keeler,
6 K-E-E-L-E-R. I'm general counsel of Centaur and
7 Hoosier Park. Thank you very much for hearing the
8 petition.

9 As you'll recall at the Commission's December
10 meeting, the Commission approved the relocation of
11 the Fort Wayne OTB from the current location to the
12 location at Lincoln Plaza at New Haven, Indiana.
13 Likewise, you authorized the sale of the existing
14 location in Fort Wayne, FastBet Mobile at the new
15 location or proposed new location at New Haven, and
16 authorized the executive director to approve plans
17 and construction contracts, and a lease.

18 At that point in time, we had a letter of
19 intent with our proposed landlord at the Lincoln
20 Plaza. The landlord neglected to tell us he had a
21 covenant with another tenant that he couldn't have
22 a restaurant over 35 seats. So that sent us
23 looking for other locations.

24 We found another location in New Haven. It's
25 about two miles further from the existing location

1 but still within New Haven. It's in a newer
2 shopping center. It's a little smaller venue, but
3 it's closer to the interstate interchange. So our
4 business people feel that it's an ideal location,
5 and one that's preferable.

6 We negotiated a letter of intent with that
7 landlord. And that particular location is called
8 Lutheran Plaza. One of the tenants within that
9 center also had a right of first refusal on all the
10 space that would become vacant.

11 So during the time we filed our petition until
12 now, that tenant has waived its right of first
13 refusal. So we now know that we have a binding
14 letter of intent. We have a lease negotiated that
15 is part of our petition. And with the Commission's
16 blessing today, we are prepared to execute that
17 lease and send it off and begin work.

18 We would ask that the Commission not only
19 approve the relocation to the Lutheran Plaza site
20 but also authorize FastBet Mobile as you had
21 previously, authorize us to sign the lease, and
22 leave with the discretion of the executive director
23 the ability to approve construction contracts over
24 \$50,000 and the actual plans.

25 I would say we have done a preliminary layout

1 on this location. We are convinced that the plan
2 that we will present to the executive director will
3 in all respects comply with the regulations for
4 OTBs. Happy to answer any questions.

5 CHAIRMAN DIENER: The alternate site that you
6 have meets all the requirements for seating,
7 dining, whatever?

8 MR. KEELER: Yes, sir.

9 COMMISSIONER SCHENKEL: It's probably in here.
10 What's this do to your opening estimating time?

11 MR. KEELER: That's a great question. I
12 should have covered that. Our sale agreement with
13 the purchase of our Fort Wayne location called for
14 a closing and possession on July 15th. We have
15 renegotiated that now. So we've bought another 75
16 days.

17 COMMISSIONER SCHENKEL: You won't be dark.

18 MR. KEELER: I think our dark period, which we
19 estimated to be about two weeks, will still be
20 there, give or take a week.

21 CHAIRMAN DIENER: Further questions? Move we
22 grant the petition to change the site location in
23 New Haven for the satellite facility.

24 COMMISSIONER SCHAEFER: Second.

25 CHAIRMAN DIENER: All in favor?

1 THE COMMISSION: "Aye."

2 CHAIRMAN DIENER: Opposed, same sign.

3 (No response.)

4 MR. KEELER: Thank you.

5 CHAIRMAN DIENER: John, just a question. Have
6 you seen any impact that you can measure from Ohio
7 in terms of your handle at the Fort Wayne facility?
8 Is it too early to tell?

9 MR. KEELER: I can tell you, Mr. Chairman,
10 that I don't know that we've measured that in a way
11 that I can positively tell you that's the case, but
12 from on the casino side, we have seen impact from
13 Ohio. And we estimate at Hoosier Park to be in the
14 neighborhood of about two percent.

15 CHAIRMAN DIENER: Okay. Thank you. Approval
16 of the horsemen's contract between Hoosier Park and
17 the Indiana Standardbred Association. Mr. Moore.

18 RICK MOORE: Thank you, Mr. Chairman, Members
19 of the Commission. Rick Moore, M-O-O-R-E,
20 vice-president and general manager of racing at
21 Hoosier Park.

22 The agreement between Hoosier Park and the
23 Indiana Standardbred Association is basically the
24 same as last year. I would point out two clauses
25 that have been added. One reflects our partnership

1 with the ISA in the daily operating fee for our
2 Trakus, our video imaging system that has been
3 added to the contract. And also a clause has been
4 put in there for the potential of any revenues if
5 we would be able to sell our signal internationally
6 beyond Canada, into Europe, Australia, wherever.
7 Those aren't in play yet, but if they would be, we
8 would have a clause to divide revenues 50/50 with
9 the ISA.

10 CHAIRMAN DIENER: Comments, questions from the
11 Commission? Comments? Make a motion to approve
12 the horsemen's contract between Hoosier Park and
13 the ISA for this year.

14 COMMISSIONER PILLOW: Second.

15 CHAIRMAN DIENER: All in favor?

16 THE COMMISSION: "Aye."

17 CHAIRMAN DIENER: Motion passes. Thank you,
18 Mr. Moore. Mr. Schuster, we have a horsemen's
19 contract proposed for Indiana Grand and the Quarter
20 Horse Racing Association.

21 JON SCHUSTER: Thank you, Mr. Chairman. Good
22 morning, Commissioners. I'm Jon Schuster with
23 Indiana Grand Racing and Casino. You will find the
24 Quarter Horse contract essentially mirrors last
25 year. There are no major changes. And we will

1 request your approval.

2 COMMISSIONER SCHAEFER: Jon, how many race
3 days do you have?

4 JON SCHUSTER: We have six specific Quarter
5 Horse days, same as last year. Of course, we will
6 have lots of races sprinkled throughout the meet as
7 we always have.

8 CHAIRMAN DIENER: Questions? Move we approve
9 the Quarter Horse contract with Indiana Grand for
10 this year. All in favor?

11 THE COMMISSION: "Aye."

12 CHAIRMAN DIENER: Opposed, same sign.

13 (No response.)

14 CHAIRMAN DIENER: The opening, the training,
15 the track surface, how are things looking there at
16 Indiana Grand?

17 JON SCHUSTER: They are looking great. You
18 all should come out and have a look. It is a
19 nearly entirely new looking facility. Of course,
20 the racing surface is totally new, totally
21 renovated, and approved. We've got a beautiful new
22 infield tote board. We have a great big video. We
23 call it a Jumbotron. That may be a trademark name,
24 but it is an awesome, awesome change. I hope you
25 all get a chance to come out and see it. It's very

1 modern, brings us up into the strata of modern
2 tracks. I think you'll like it.

3 CHAIRMAN DIENER: Are you going to be running
4 any more turf races this year or about the same?

5 JON SCHUSTER: We may be running a few less.
6 We probably are going to be a few weeks delayed
7 getting on the turf course. With all of the
8 different renovations and the addition of the tote
9 board and so forth, we have some, what I'll call
10 concerns with the turf course. We want to make
11 sure it's 100 percent perfect before we put the
12 horses on it if there's any kind of potential for
13 risk. There probably is not that type of risk
14 there, but we want to make certain. So we may be a
15 few weeks delayed. It may not end up affecting the
16 total number of races. We may make those races up
17 later in the year. It just depends on the weather,
18 the horse population and so forth.

19 CHAIRMAN DIENER: Thank you. Appreciate it.
20 And for the benefit of the Commissioners Pillow and
21 Weatherwax, if you want to have some fun, go to a
22 Quarter Horse day out there. It's like going to a
23 different horse meet. I hate to be pushing Quarter
24 Horses, but it's a lot of fun.

25 JON SCHUSTER: It's a wonderful event. People

1 really get behind it.

2 CHAIRMAN DIENER: Thank you. Indiana Downs
3 Thoroughbred Quarter Horse racing official list for
4 this year. Mr. Gorajec.

5 JOE GORAJEC: I would recommend approval.
6 Commission staff has no issues.

7 CHAIRMAN DIENER: Questions? Move that we
8 approve the list for racing officials for this
9 year's Thoroughbred-Quarter Horse meet at Indiana
10 Downs. All in favor?

11 THE COMMISSION: "Aye."

12 CHAIRMAN DIENER: Opposed?

13 (No response.)

14 CHAIRMAN DIENER: Motion carries. Mr. Keeler,
15 FastBet Mobile in Clarksville.

16 MR. KEELER: Thank you, Mr. Chairman, Members
17 of the Commission. My name is John Keeler,
18 K-E-E-L-E-R. I'm the general counsel of Centaur.
19 And, again, thank you for hearing the Clarksville
20 petition.

21 This petition merely seeks the authority of
22 the Commission to allow Indiana Grand to operate
23 FastBet Mobile at its Clarksville OTB. This will
24 be, I think, in succession. Just to bring
25 everybody through history a little bit, we will now

1 either have in operation FastBet Mobile at both
2 racetracks and all OTBs, either authorized in the
3 case of New Haven, with the exception of
4 Merrillville being the only location if this
5 approval is granted.

6 As you will recall, FastBet Mobile was never
7 at Indiana Grand or the Clarksville OTB because it
8 had a different tote operator that was inconsistent
9 with the FastBet Mobile product. Now, that there's
10 a common tote provider, we are able to do that.

11 COMMISSIONER SCHAEFER: How is the FastBet
12 going? Have you had any difficulty with it?

13 MR. KEELER: We have had absolutely no
14 difficulties. And I'm trying to remember. I had
15 this in our petition when we asked for it to be at
16 Indiana Grand at the racetrack itself. But my
17 recollection is that it's in the general
18 neighborhood of a 10 percent increase in handle at
19 Hoosier Park and generally about the same at the
20 Winner's Circle in downtown Indianapolis.

21 It's been a definite handle booster. And it's
22 been a product that I thought at first just those
23 young people that were technologically savvy would
24 be drawn to. And that is the case, but now with
25 some of the, oh, more stationary versions of it,

1 there are a lot of old timers that have been drawn
2 to the convenience of it, not having to get up to
3 place bets. It's been a great success, especially
4 in that social setting where a number of people are
5 together.

6 COMMISSIONER SCHAEFER: Guys like you and I
7 bring our kids and show them how to do it.

8 MR. KEELER: I've got a card, but I'm still
9 going to the window.

10 COMMISSIONER SCHENKEL: Need somebody under 30
11 to help.

12 CHAIRMAN DIENER: Consider a motion to
13 authorize the FastBet Mobile.

14 COMMISSIONER SCHAEFER: So moved.

15 CHAIRMAN DIENER: Second. All in favor?

16 THE COMMISSION: "Aye."

17 CHAIRMAN DIENER: Opposed, same sign.

18 (No response.)

19 CHAIRMAN DIENER: Hearing none, the motion is
20 approved. I should not have let you sit down,
21 John. I have a couple of questions.

22 What's the business situation of a Clarksville
23 satellite facility?

24 MR. KEELER: Mr. Chairman, let me just say
25 generally, and I can defer to Brian or Jon who can

1 give you more particulars, it has from a
2 profitability point of view been a shining star of
3 the system, if shining star is the word to use, but
4 it is good. And it is on the list to be converted
5 into a Winner's Circle at some point. It has a
6 little different situation in the shopping center
7 down there that was deteriorating somewhat and has
8 new ownership. And we have a new lease down there,
9 and they are renovating the center. We think we
10 have a positive location, but business is good
11 there.

12 CHAIRMAN DIENER: But in southern Indiana,
13 you're not talking about changing that location
14 now?

15 MR. KEELER: No, no.

16 CHAIRMAN DIENER: Another question if you can
17 answer or if you even want to answer. Do you get
18 the signal from Churchill and Keeneland?

19 MR. KEELER: Let me defer.

20 BRIAN ELMORE: We do not.

21 CHAIRMAN DIENER: I thought that was the case.
22 Any old business? No new business. Don't know
23 when we are going to meet again, but I know one
24 agenda will be us to consider additional changes
25 and additions to the national medication rules.

1 Thank you for your participation this morning.
2 And I will just as a personal comment because I've
3 heard some things, we need to wait and see what
4 Ohio is going to do. They might do something
5 different for harness racing and Thoroughbreds. I
6 will tell you, I would much rather have the Ohio
7 commission looking at what Indiana is doing. I
8 don't want to be following the Ohio commission. I
9 want the Ohio commission to follow what the Indiana
10 commission is doing. So let the neighboring states
11 get on board with us rather than the other way
12 around.

13 Thank you for your time. Adjourned.

14 (The meeting of the Indiana Horse Racing
15 Commission adjourned at 10:27 a.m.)
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1 STATE OF INDIANA
2 COUNTY OF JOHNSON

3

4 I, Robin P. Martz, a Notary Public in and for
5 said county and state, do hereby certify that the
6 foregoing matter was taken down in stenograph notes
7 and afterwards reduced to typewriting under my
8 direction; and that the typewritten transcript is a
9 true record of the Indiana Horse Racing Commission
10 meeting;

11 I do further certify that I am a disinterested
12 person in this; that I am not a relative of the
13 attorneys for any of the parties.

14 IN WITNESS WHEREOF, I have hereunto set my
15 hand and affixed my notarial seal this 14th day of May
16 2014.

17

18

Robin P. Martz

19

20



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22 My Commission expires:
23 March 2, 2016

23

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25

Job No. 84288

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