

**TITLE 71 INDIANA HORSE RACING COMMISSION****Emergency Rule**

LSA Document #07-198(E)

**DIGEST**

Amends [71 IAC 3-2-6](#) concerning order of finish for pari-mutuel wagering. Amends [71 IAC 3-2-9](#) concerning judge's list. Amends [71 IAC 3.5-2-6](#) concerning order of finish for pari-mutuel wagering thoroughbred. Amends [71 IAC 4-4-10](#) concerning "In Today" program. Amends [71 IAC 4.5-4-10](#) concerning "In Today" program thoroughbred. Adds [71 IAC 5-1-28](#) concerning review of horse transfers. Adds [71 IAC 5-1-29](#) concerning review of trainer transfers. Amends [71 IAC 5-2-1](#) concerning licensing requirements for owners. Adds [71 IAC 5-2-6](#) concerning owner – positive tests. Amends [71 IAC 5-3-1](#) concerning eligibility. Amends [71 IAC 5-3-3](#) concerning other responsibilities. Amends [71 IAC 5.5-1-25](#) concerning safety helmets. Adds [71 IAC 5.5-1-30](#) concerning review of horse transfers thoroughbred. Adds [71 IAC 5.5-1-31](#) concerning review of trainer transfers thoroughbred. Amends [71 IAC 5.5-2-1](#) concerning licensing requirements for owners thoroughbred. Adds [71 IAC 5.5-2-6](#) concerning owner – positive tests thoroughbred. Amends [71 IAC 5.5-3-1](#) concerning eligibility thoroughbred. Amends [71 IAC 5.5-3-3](#) concerning other responsibilities thoroughbred. Amends [71 IAC 6-1-4](#) concerning excusing claimed horse. Amends [71 IAC 7-1-13](#) concerning coupled entries. Amends [71 IAC 7-1-35](#) concerning eligibility for racing and ownership status. Amends [71 IAC 7-4-4](#) concerning protests. Amends [71 IAC 7.5-1-4](#) concerning coupled entries. Adds [71 IAC 7.5-5-2](#) eligibility for racing and ownership status. Amends [71 IAC 7.5-8-4](#) concerning protests thoroughbred. Amends [71 IAC 8-1-3](#) concerning foreign substances allowed. Amends [71 IAC 8-5-5](#) concerning records of treatment. Amends [71 IAC 8-12-5](#) concerning Indiana Sires Stakes and Genesis Series. Amends [71 IAC 8.5-1-3](#) concerning foreign substances allowed thoroughbred. Amends [71 IAC 8.5-4-5](#) concerning records of treatment. Amends [71 IAC 9-1-4](#) concerning pari-mutuel ticket sales. Amends [71 IAC 9-1-13](#) concerning pools dependent on betting interests. Amends [71 IAC 10-1-1](#) concerning general provisions. Amends [71 IAC 10-2-8](#) concerning effect of rulings. Adds [71 IAC 10-2-8.1](#) concerning effect of ruling trainers. Amends [71 IAC 10-2-9](#) concerning appeals. Amends [71 IAC 10-3-1](#) concerning initiation of proceedings. Amends [71 IAC 10-3-20](#) concerning administrative penalties. Adds [71 IAC 10-5](#) concerning appearance by attorneys or representatives. Effective March 16, 2007. *NOTE: [IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. This document was filed with the Publisher March 20, 2007.*

[71 IAC 3-2-6](#); [71 IAC 3-2-9](#); [71 IAC 3.5-2-6](#); [71 IAC 4-4-10](#); [71 IAC 4.5-4-10](#); [71 IAC 5-1-28](#); [71 IAC 5-1-29](#); [71 IAC 5-2-1](#); [71 IAC 5-2-6](#); [71 IAC 5-3-1](#); [71 IAC 5-3-3](#); [71 IAC 5.5-1-25](#); [71 IAC 5.5-1-30](#); [71 IAC 5.5-1-31](#); [71 IAC 5.5-2-1](#); [71 IAC 5.5-2-6](#); [71 IAC 5.5-3-1](#); [71 IAC 5.5-3-3](#); [71 IAC 6-1-4](#); [71 IAC 7-1-13](#); [71 IAC 7-1-35](#); [71 IAC 7-4-4](#); [71 IAC 7.5-1-4](#); [71 IAC 7.5-5-2](#); [71 IAC 7.5-8-4](#); [71 IAC 8-1-3](#); [71 IAC 8-5-5](#); [71 IAC 8-12-5](#); [71 IAC 8.5-1-3](#); [71 IAC 8.5-4-5](#); [71 IAC 9-1-4](#); [71 IAC 9-1-13](#); [71 IAC 10-1-1](#); [71 IAC 10-2-8](#); [71 IAC 10-2-8.1](#); [71 IAC 10-2-9](#); [71 IAC 10-3-1](#); [71 IAC 10-3-20](#); [71 IAC 10-5](#)

SECTION 1. [71 IAC 3-2-6](#) IS AMENDED TO READ AS FOLLOWS:

**[71 IAC 3-2-6](#) Order of finish for pari-mutuel wagering****Authority:** [IC 4-31-3-9](#)**Affected:** [IC 4-31](#)

Sec. 6. (a) The judges shall determine the official order of finish for each race in accordance with [71 IAC 7](#).

(b) The decision of the judges as to the official order of finish, including the disqualification of a horse or horses as a result of any event occurring during the contesting of the race, shall be final for purposes of distribution of the pari-mutuel wagering pool.

**(c) No protest may be made relating to the decision of the judges as to the official order of finish, and no appeal is available to challenge such a determination.**

*(Indiana Horse Racing Commission; [71 IAC 3-2-6](#); emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1128; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]*

SECTION 2. [71 IAC 3-2-9](#) IS AMENDED TO READ AS FOLLOWS:

**71 IAC 3-2-9 Judge's list**

**Authority:** [IC 4-31-3-9](#)

**Affected:** [IC 4-31](#)

Sec. 9. (a) The judges shall maintain a judge's list of the horses that are ineligible to be entered in a race because of poor or inconsistent performance or behavior on the race track that may endanger the health and safety of the participants and for the protection of the wagering public. The reasons for a horse to be placed on the judge's list and ordered to qualify shall include, but not be limited to, the following on a fast or good track:

- (1) Making a break in a qualifying race.
- (2) Making a break in a race following a qualifying race unless finishing first, second, or third. Two (2) year old nonwagering purse races for three hundred dollars (\$300) or less shall be considered a qualifying race.
- (3) Poor performance or failure to go in a qualifying time following a qualifying race.
- (4) Poor performance in a qualifying race regardless of going in qualifying time.
- (5) Failure to go in qualifying time in two (2) consecutive starts.
- (6) Failure to go in qualifying time previous or subsequent to a break line.
- (7) Making breaks in two (2) consecutive starts unless finishing first, second, or third in one (1) of the two (2).
- (8) Being scratched sick or lame in two (2) consecutive programmings or scratched sick or lame from a race following a qualifying race.
- (9) Scratched sick or lame, having failed to go in qualifying time in a previous or subsequent start to that scratch.
- (10) Scratched sick/lame in a race previous or subsequent to a break line.
- (11) Numerous bad lines in its last six (6) starts regardless of being consecutive on finishing first, second, or third.

(b) An Indiana sired horse showing a satisfactory line in one (1) of its last two (2) starts or its last start at a pari-mutuel track prior to racing at a county fair half-mile, the aforementioned county fair lines will not be considered towards its eligibility to return to the pari-mutuel track. Notwithstanding the above satisfactory line, at the pari-mutuel track, must be within its last six (6) programmed lines but within thirty (30) days of the pari-mutuel start (race date to race date).

(c) A horse having not raced at a pari-mutuel track must show a satisfactory charted line in one (1) of its last two (2) county fair starts within the time standards set within the last thirty (30) days (race date to race date).

(d) A horse having not raced at a pari-mutuel track must show a satisfactory charted line in one (1) of its last two (2) county fair starts within the time standards set.

(e) The judges may place a horse on the judge's list when there exists a question as to the exact identification, ownership, or trainer of a horse.

(f) A horse that has been the subject of a finding by a commission approved laboratory that the antibody of erythropoietin or darbepoietin was present in the sample taken from the horse shall be placed on the judge's list. Such horse shall not be released from the judge's list unless and until it has tested negative by a commission approved laboratory for the antibody of erythropoietin or darbepoietin.

(g) A horse may not be released from the judge's list without permission of the judges.

**(h) The judges may waive qualifying requirements of this rule for Hambletonian Society Stake races if, in their sole discretion, such a waiver does not endanger the health and safety of the participants.**

*(Indiana Horse Racing Commission; [71 IAC 3-2-9](#); emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1129; emergency rule filed Apr 9, 1998, 1:18 p.m.: 21 IR 3377; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2097; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Mar 27, 2002, 10:25 a.m.: 25 IR 2534; emergency rule filed Feb 21, 2003, 4:15 p.m.: 26 IR 2380; emergency rule filed Jan 21, 2004, 2:30 p.m.: 27 IR 1911; emergency rule filed Apr 21, 2004, 3:45 p.m.: 27 IR 2754; emergency rule filed May 10, 2005, 3:20 p.m.:*

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28 IR 2745; emergency rule filed Jan 25, 2006, 10:30 a.m.: 29 IR 1955; emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]

SECTION 3. [71 IAC 3.5-2-6](#) IS AMENDED TO READ AS FOLLOWS:

**[71 IAC 3.5-2-6](#) Order of finish for pari-mutuel wagering**

**Authority:** [IC 4-31-3-9](#)

**Affected:** [IC 4-31](#)

Sec. 6. (a) The stewards shall determine the official order of finish for each race in accordance with [71 IAC 7.5](#).

(b) The decision of the stewards as to the official order of finish, including the disqualification of a horse or horses as a result of any event occurring during the contesting of the race, shall be final for purposes of distribution of the pari-mutuel wagering pool.

**(c) No protest may be made relating to the decision of the stewards as to the official order of finish, and no appeal is available to challenge such a determination.**

*(Indiana Horse Racing Commission; [71 IAC 3.5-2-6](#); emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2830, eff Jul 1, 1995; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]*

SECTION 4. [71 IAC 4-4-10](#) IS AMENDED TO READ AS FOLLOWS:

**[71 IAC 4-4-10](#) "In Today" program**

**Authority:** [IC 4-31-3-9](#); [IC 4-31-12-1](#); [IC 4-31-13-4](#)

**Affected:** [IC 4-31](#)

Sec. 10. (a) The association shall, along with the assistance of the trainer or his or her licensed designee, identify each horse prior to 9:00 **10:00** a.m. on the day of the scheduled race.

(b) The association shall provide security personnel to patrol the stable area on race day in order to deter violations of commission rules, to protect the integrity of horse racing, to guard the health of the horse, and to safeguard the interests of the public.

(c) The association shall establish track rules for the implementation of the "In Today" program that shall be subject to the approval of the commission or its executive director.

*(Indiana Horse Racing Commission; [71 IAC 4-4-10](#); emergency rule filed Mar 10, 2006, 11:00 a.m.: 29 IR 2210; emergency rule filed Apr 24, 2006, 11:11 a.m.: 29 IR 3032; emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]*

SECTION 5. [71 IAC 4.5-4-10](#) IS AMENDED TO READ AS FOLLOWS:

**[71 IAC 4.5-4-10](#) "In Today" program**

**Authority:** [IC 4-31-3-9](#); [IC 4-31-12-1](#); [IC 4-31-13-4](#)

**Affected:** [IC 4-31](#)

Sec. 10. (a) The association shall, along with the assistance of the trainer or his or her licensed designee, identify each horse prior to ~~9:00~~ **10:00** a.m. on the day of the scheduled race.

(b) The association shall provide security personnel to patrol the stable area on race day in order to deter violations of commission rules, to protect the integrity of horse racing, to guard the health of the horse, and to safeguard the interests of the public.

(c) The association shall establish track rules for the implementation of the "In Today" program that shall be subject to the approval of the commission or its executive director.

*(Indiana Horse Racing Commission; [71 IAC 4.5-4-10](#); emergency rule filed Mar 10, 2006, 11:00 a.m.: 29 IR 2210; emergency rule filed Apr 24, 2006, 11:11 a.m.: 29 IR 3033; emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]*

SECTION 6. [71 IAC 5-1-28](#) IS ADDED TO READ AS FOLLOWS:

**[71 IAC 5-1-28](#) Review of horse transfers**

Authority: [IC 4-31-3-9](#)

Affected: [IC 4-31-13](#)

**Sec. 28. The executive director or the judges may refuse the license of an owner, declare the horse(s) at issue ineligible to race, require the horse(s) at issue to be stabled on the grounds of the association, and/or place a horse on the judge's list if the seller is suspended, barred, has had his or her license refused, or is otherwise unlicensable. In making such a determination, the executive director or judges may consider any information that they deem relevant including, but not limited to, the following:**

- (1) Whether the buyer is a spouse, member of the immediate family, assistant, employee, business associate, or member of the seller's household.**
- (2) Whether the seller could have contact with or access to the horse(s) in question after transfer.**
- (3) Whether the sale occurred within the previous sixty (60) days.**

*(Indiana Horse Racing Commission; [71 IAC 5-1-28](#); emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]*

SECTION 7. [71 IAC 5-1-29](#) IS ADDED TO READ AS FOLLOWS:

**[71 IAC 5-1-29](#) Review of trainer transfers**

Authority: [IC 4-31-3-9](#)

Affected: [IC 4-31-13](#)

**Sec. 29. The executive director or the judges may refuse the license of a trainer, declare the horse(s) at issue ineligible to race, require the horse(s) at issue to be stabled on the grounds of the association, and/or place a horse on the judge's list if the prior trainer has been suspended, barred, has had his or her license refused, or is otherwise unlicensable. In making such a determination, the executive director or judges may consider any information that they deem relevant including, but not limited to, the following:**

- (1) Whether the trainer is a spouse, member of the immediate family, assistant, employee, or member of the prior trainer's household.**
- (2) Whether the prior trainer could have contact with or access to the horse(s) in question.**
- (3) Whether the trainer transfer occurred within the previous sixty (60) days.**

*(Indiana Horse Racing Commission; [71 IAC 5-1-29](#); emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]*

**[71 IAC 5-2-1](#) Licensing requirements for owners**

**Authority:** [IC 4-31-6-2](#)

**Affected:** [IC 4-31](#)

Sec. 1. (a) Each person who has a five percent (5%) or more ownership or beneficial interest in a horse is required to be licensed. An applicant for an owner's license can be of any age.

(b) An applicant for an owner's license shall own or lease a horse which is:

- (1) eligible to race; and
- (2) registered with the racing secretary.

(c) If younger than eighteen (18) years of age, an applicant for an owner's license shall submit a notarized affidavit from his or her parent or legal guardian stating that the parent or legal guardian assumes responsibility for the applicant's financial, contractual, and other obligations relating to the applicant's participation in racing. In addition, the parents or legal guardians of an applicant for an owner's license under the age of eighteen (18) must be licensed as an owner.

(d) If the commission or its designee has reason to doubt the financial responsibility of an applicant for an owner's license, the applicant may be required to complete a verified financial statement.

(e) Each licensed owner and trainer is responsible for disclosure to the commission or its designee of the true and entire ownership of each of his or her horses registered with the racing secretary. Any change in ownership or trainer of a horse registered with the racing secretary shall be approved by the judges. Each owner and trainer shall comply with all licensing requirements.

**(f) Each licensed owner is responsible for disclosure to the commission or its designee of the identity of the true and bona fide trainer of each of his or her horses registered with the racing secretary. Any change in the trainer of a horse registered with the racing secretary shall be approved by the judges. Each trainer shall comply with all licensing requirements.**

~~(g)~~ **(g)** The commission or its designee may refuse, deny, suspend, or revoke an owner's license for the spouse, or member of the immediate family, or household of a person ineligible to be licensed as an owner, unless there is a showing **by clear and convincing evidence** on the part of the applicant or licensed owner (and the commission determines) that participation in racing will not permit a person to serve as a substitute for an ineligible person. **To the extent the commission or its designee obtains information that raises a reasonable suspicion that any other person may be serving as a substitute for a person ineligible to be licensed as an owner, any horse whose ownership is in question may be placed on the judge's list. In such event, any horse whose bona fide ownership is at issue is ineligible to race until such time that the issue is proven by the entrant of the horse by clear and convincing evidence in accordance with the provisions of [71 IAC 7-1-35](#).** The transfer of a horse to circumvent the intent of a commission rule or ruling is prohibited.

~~(g)~~ **(h)** Each person licensed as an owner consents to the release of records or information required by these rules relating to the medication, care, and/or treatment of a horse by a veterinarian. Additionally, each owner waives and releases any claim that he or she might have against any veterinarian resulting from or in any way relating to the release of records or information to the commission pertaining to the medication, care, and/or treatment of a horse. This provision also serves as and provides a corresponding consent and waiver by and on behalf of the trainer of each of the owner's horses.

*(Indiana Horse Racing Commission; [71 IAC 5-2-1](#); emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1144; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2848, eff Jul 1, 1995; emergency rule filed Mar 25, 1996, 10:15 a.m.: 19 IR 2075; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2099; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Mar 10, 2006, 11:00 a.m.: 29 IR 2211; emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March*

SECTION 9. [71 IAC 5-2-6](#) IS ADDED TO READ AS FOLLOWS:

**[71 IAC 5-2-6](#) Owner – positive tests**

Authority: [IC 4-31-6-2](#); [IC 4-31-13-1](#)

Affected: [IC 4-31-6-6](#)

Sec. 6. (a) Owner(s) of horses testing positive on more than one (1) occasion within the preceding five (5) years for a prohibited substance other than phenylbutazone, flunixin, or ketoprofen, may, at the discretion of the executive director or the judges, be required to stable all horses participating in a race meet upon the grounds of the association and/or be required to place all horses in the detention barn on the day before and/or the day of its scheduled race. A positive test under this section shall include violations in Indiana and in other jurisdictions.

(b) Special consideration shall be given to positive tests for Class 1, 2, or 3 drugs as listed in the Association of Racing Commissioners International's Uniform Classification Guidelines of Foreign Substances. Special consideration shall also be given to TC02 violations, blood gas violations, and to findings of any drug, medication, or foreign substance administered within twenty-four (24) hours of a horse's scheduled race.

*(Indiana Horse Racing Commission; [71 IAC 5-2-6](#); emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]*

SECTION 10. [71 IAC 5-3-1](#) IS AMENDED TO READ AS FOLLOWS:

**[71 IAC 5-3-1](#) Eligibility**

Authority: [IC 4-31-6-2](#)

Affected: [IC 4-31](#)

Sec. 1. (a) An applicant for a license as trainer or assistant trainer shall:

- (1) be at least eighteen (18) years of age;
- (2) shall hold a currently valid trainer's license issued by the USTA or CTA;
- (3) be qualified, as determined by the judges or other commission designee, by reason of experience, background, and knowledge of racing.

(b) An applicant not previously licensed as a trainer shall be required to pass a written or oral examination and a demonstration of practical skills administered by the USTA/CTA or their designee.

(c) Each licensed owner and trainer is responsible for disclosure to the commission or its designee of the true and bona fide trainer of each of his or her horses registered with the racing secretary. Any change in the trainer of a horse registered with the racing secretary shall be approved by the judges. Each trainer shall comply with all licensing requirements.

(d) The commission or its designee may refuse, deny, suspend, or revoke a trainer's license for the spouse, member of the immediate family, or household of a person ineligible to be licensed as a trainer, unless there is a showing, by clear and convincing evidence, on the part of the licensed trainer, applicant, or licensed owner (and the commission determines) that participation in racing will not permit a person to serve as a substitute for an ineligible person. The transfer of a horse to a trainer who would circumvent the intent of a commission rule or ruling is prohibited.

(e) To the extent the commission or its designee obtains information that raises a reasonable suspicion that any other person may be serving as a substitute for a person ineligible to be licensed as a

**trainer, any horse that the substitute is training may be placed on the judge's list. In such event, any horse involving an issue of the true and bona fide trainer is ineligible to race until such time that the issue is proven by the entrant of the horse by clear and convincing evidence in accordance with the provisions of [71 IAC 7-1-35](#).**

*(Indiana Horse Racing Commission; [71 IAC 5-3-1](#); emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1145; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed May 10, 2005, 3:20 p.m.: 28 IR 2746; emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]*

SECTION 11. [71 IAC 5-3-3](#) IS AMENDED TO READ AS FOLLOWS:

### **[71 IAC 5-3-3](#) Other responsibilities**

**Authority:** [IC 4-31-3-9](#)

**Affected:** [IC 4-31](#)

Sec. 3. (a) A trainer is responsible for the following:

- (1) The condition and contents of stalls, tack rooms, feed rooms, sleeping rooms, and other areas which have been assigned by the association.
- (2) Maintaining the assigned stable area in a clean, neat, and sanitary condition at all times.
- (3) Ensuring that fire prevention rules are strictly observed in the assigned stable area.
- (4) Providing a list to the commission of the trainer's employees on association grounds and any other area under the jurisdiction of the commission. The list shall include each employee's:
  - (A) name;
  - (B) occupation;
  - (C) Social Security number; and
  - (D) occupational license number.

The commission shall be notified by the trainer, in writing, within twenty-four (24) hours of any change.

- (5) The proper identity, custody, care, health, condition, and safety of horses in his or her charge.
- (6) Disclosure of the true and entire ownership of each horse in his or her care, custody, or control. Any change in ownership shall be reported immediately to, and approved by, the judges and recorded by the racing secretary.
- (7) Training all horses owned wholly or in part by him or her which are participating at the race meeting.
- (8) Registering with the racing secretary each horse in his or her charge within twenty-four (24) hours of the horse's arrival on association grounds.
- (9) Ensuring that, at the time of arrival at a licensed race track, each horse in his or her care is accompanied by a valid health certificate, which shall be filed with the racing secretary.
- (10) Having each horse in his or her care that is racing, or is stabled on association grounds, tested for equine infectious anemia (EIA) in accordance with state law and for filing evidence of such negative test results with the racing secretary.
- (11) Using the services of those veterinarians licensed by the commission to attend horses that are on association grounds.
- (12) Immediately reporting the alteration of the sex of a horse in his or her care to the horse identifier and the racing secretary, whose office shall note such alteration on the USTA electronic eligibility.
- (13) Promptly reporting to the racing secretary and the commission veterinarian any horse on which a posterior digital neurectomy (heel nerving) has been performed and ensuring that such fact is designated on the USTA electronic eligibility.
- (14) Promptly reporting to the judges and the commission veterinarian the serious illness of any horse in his or her charge.
- (15) Promptly reporting the death of any horse in his or her care on association grounds to the judges and the commission veterinarian and compliance with [71 IAC 8](#) governing postmortem examinations.
- (16) Maintaining a knowledge of the medication record and status of all horses in his or her care.
- (17) Immediately reporting to the judges and the commission veterinarian if he or she knows, or has cause to believe, that a horse in his or her custody, care, or control has received any prohibited drugs or medication.
- (18) Representing an owner in making entries and scratches and in all other matters pertaining to racing.
- (19) Horses entered as to eligibility.
- (20) Ensuring the fitness of a horse to perform creditably.

- (21) Ensuring that his or her horses are properly shod, bandaged, and equipped.
- (22) Presenting his or her horse in the paddock at the appointed time before the race in which the horse is entered.
- (23) Personally attending to his or her horses in the paddock or designating a licensee to attend to the horse in the paddock.
- (24) Instructing the driver to give his or her best effort during a race and that each horse shall be driven to win.
- (25) Attending the collection of a urine or blood sample from the horse in his or her charge or delegating a licensed employee or the owner of the horse to do so.
- (26) Promptly notifying the owner of a horse of a positive test or blood gas analysis report performed on his or her horse indicating levels in violation of [71 IAC 8](#).
- (27) Notifying horse owners upon the revocation or suspension of his or her trainer's license.
- (28) Guard and protect all horses in his or her care.
- (29) Account for fees and services rendered on behalf of any horse in his or her care to the appropriate owner or owners.
- (30) Determine the training regimen of all horses in his or her care.
- (31) Reporting at time of entry if his or her horse will be racing with a nasal strip.
- (32) Ensuring that electronic eligibility is registered with the USTA prior to entry in a race or qualifying race.
- (33) Immediately notifying the judges, or in their absence commission or track security, of any contact a practicing veterinarian or his or her helper has with a horse within twenty-four (24) hours of its scheduled race except for the administration of furosemide in accordance with commission rules.

(b) Upon application by the owner, the judges may approve the transfer of such horses to the care of another licensed trainer, and, upon such approved transfer, such horses may be entered to race.

(c) No trainer shall assign any of his or her duties or responsibilities to any person that is disqualified or ineligible to participate in racing or is not appropriately licensed.

(d) No trainer shall assume any of the above responsibilities for a horse not under his or her active care, custody, and supervision.

(e) No trainer shall practice his profession except under his or her own name.

**(f) No trainer shall permit a veterinarian whose license is suspended in any jurisdiction or who is excluded from the stable area of tracks under the jurisdiction of the commission to treat any horse, regardless of its location, that has or will be actively participating in racing in Indiana during a given calendar year.**

*(Indiana Horse Racing Commission; [71 IAC 5-3-3](#); emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1146; emergency rule filed Jan 27, 1995, 3:30 p.m.: 18 IR 1498; emergency rule filed Jun 8, 1999, 9:31 a.m.: 22 IR 3125, eff May 26, 1999 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the secretary of state. LSA Document #99-108(E) was filed with the secretary of state June 8, 1999.]; emergency rule filed Mar 27, 2000, 8:20 a.m.: 23 IR 2005; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2100; errata filed Jun 21, 2001, 3:21 p.m.: 24 IR 3652; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Mar 27, 2002, 10:25 a.m.: 25 IR 2535; emergency rule filed Mar 10, 2006, 11:00 a.m.: 29 IR 2212; errata filed Apr 10, 2006, 2:00 p.m.: 29 IR 2546; emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]*)

SECTION 12. [71 IAC 5.5-1-25](#) IS AMENDED TO READ AS FOLLOWS:

**[71 IAC 5.5-1-25](#) Safety helmets**

**Authority:** [IC 4-31-6-2](#)

**Affected:** [IC 4-31](#)

Sec. 25. **(a)** Any person mounted on a horse or stable pony on association grounds must wear an ~~A.S.T.A.~~ approved a safety helmet at all times.



(b) All jockeys competing in a race must wear a safety helmet that meets one (1) of the following safety standards:

- (1) American Society for Testing and Materials (ASTM).
- (2) UK Standards EN-1384 and PAS-015.
- (3) Australian/New Zealand Standards AS/NZS-3838.

(c) The jockey is responsible for providing sufficient evidence that his/her helmet meets a standard as listed in subsection (b).

*(Indiana Horse Racing Commission; [71 IAC 5.5-1-25](#); emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2853, eff Jul 1, 1995; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]*

SECTION 13. [71 IAC 5.5-1-30](#) IS ADDED TO READ AS FOLLOWS:

**[71 IAC 5.5-1-30](#) Review of horse transfers**

Authority: [IC 4-31-3-9](#)

Affected: [IC 4-31-13](#)

**Sec. 30.** The executive director or the stewards may refuse the license of an owner, require the horse(s) at issue to be stabled on the grounds of the association, and/or place a horse on the stewards list if the seller is suspended, barred, has had his or her license refused, or is otherwise unlicensable. In making such a determination, the executive director or stewards may consider any information that they deem relevant including, but not limited to, the following:

- (1) Whether the buyer is a spouse, member of the immediate family, assistant, employee, business associate, or member of the seller's household.
- (2) Whether the seller could have contact with or access to the horse(s) in question after transfer.
- (3) Whether the sale occurred within the previous sixty (60) days.

*(Indiana Horse Racing Commission; [71 IAC 5.5-1-30](#); emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]*

SECTION 14. [71 IAC 5.5-1-31](#) IS ADDED TO READ AS FOLLOWS:

**[71 IAC 5.5-1-31](#) Review of trainer transfers**

Authority: [IC 4-31-3-9](#)

Affected: [IC 4-31-13](#)

**Sec. 31.** The executive director or the stewards may refuse the license of a trainer, require the horse(s) at issue to be stabled on the grounds of the association, and/or place a horse on the stewards list if the prior trainer has been suspended, barred, has had his or her license refused, or is otherwise unlicensable. In making such a determination, the executive director or stewards may consider any information that they deem relevant including, but not limited to, the following:

- (1) Whether the trainer is a spouse, member of the immediate family, assistant, employee, or member of the prior trainer's household.
- (2) Whether the prior trainer could have contact with or access to the horse(s) in question.
- (3) Whether the trainer transfer occurred within the previous sixty (60) days.

*(Indiana Horse Racing Commission; [71 IAC 5.5-1-31](#); emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]*

SECTION 15. [71 IAC 5.5-2-1](#) IS AMENDED TO READ AS FOLLOWS:

**[71 IAC 5.5-2-1](#) Licensing requirements for owners**

Authority: [IC 4-31-6-2](#)

Affected: [IC 4-31](#)

Sec. 1. (a) Each person who has a five percent (5%) or more ownership or beneficial interest in a horse is required to be licensed. An applicant for an owner's license can be of any age.

(b) An applicant for an owner's license shall own or lease a horse that is:

- (1) eligible to race; and
- (2) registered with the racing secretary.

(c) If younger than eighteen (18) years of age, an applicant for an owner's license shall submit a notarized affidavit from his or her parent or legal guardian stating that the parent or legal guardian assumes responsibility for the applicant's financial, contractual, and other obligations relating to the applicant's participation in racing. In addition, the parents or legal guardians of an applicant for an owner's license under the age of eighteen (18) must be licensed as an owner.

(d) If the commission or its designee has reason to doubt the financial responsibility of an applicant for an owner's license, the applicant may be required to complete a verified financial statement.

(e) Each licensed owner and trainer is responsible for disclosure to the commission or its designee of the true and entire ownership of each of his or her horses registered with the racing secretary. Any change in ownership or trainer of a horse registered with the racing secretary shall be approved by the stewards. Each owner and trainer shall comply with all licensing requirements.

**(f) Each licensed owner is responsible for disclosure to the commission or its designee of the identity of the true and bona fide trainer of each of his or her horses registered with the racing secretary. Any change in the trainer of a horse registered with the racing secretary shall be approved by the stewards. Each trainer shall comply with all licensing requirements.**

~~(f)~~ **(g)** The commission or its designee may refuse, deny, suspend, or revoke an owner's license for the spouse, or member of the immediate family, or household of a person ineligible to be licensed as an owner, unless there is a showing **by clear and convincing evidence** on the part of the applicant or licensed owner, and the commission determines that participation in racing will not permit a person to serve as a substitute for an ineligible person. **To the extent the commission or its designee obtains information that raises a reasonable suspicion that any other person may be serving as a substitute for a person ineligible to be licensed as an owner, any horse whose ownership is in question may be placed on the stewards' list. In such event, any horse whose bona fide ownership is at issue is ineligible to race until such time that the issue is proven by the entrant of the horse by clear and convincing evidence in accordance with the provisions of [71 IAC 7.5-5-2](#).** The transfer of a horse to circumvent the intent of a commission rule or ruling is prohibited.

~~(g)~~ **(h)** Each person licensed as an owner consents to the release of records or information required by these rules relating to the medication, care, and/or treatment of a horse by a veterinarian. Additionally, each owner waives and releases any claim that he or she might have against any veterinarian resulting from or in any way relating to the release of records or information to the commission pertaining to the medication, care, and/or treatment of a horse. This provision also serves as and provides a corresponding consent and waiver by and on behalf of the trainer of each of the owner's horses.

*(Indiana Horse Racing Commission; [71 IAC 5.5-2-1](#); emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2854, eff Jul 1, 1995; emergency rule filed Aug 9, 1995, 10:30 a.m.: 18 IR 3404; emergency rule filed Aug 23, 2001, 9:58 a.m.: 25 IR 119; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Mar 10, 2006, 11:00 a.m.: 29 IR 2213; emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]*

SECTION 16. [71 IAC 5.5-2-6](#) IS ADDED TO READ AS FOLLOWS:

**[71 IAC 5.5-2-6](#) Owner – positive tests**

Authority: [IC 4-31-6-2](#); [IC 4-31-13-1](#)

Affected: [IC 4-31-6-6](#)

**Sec. 6. (a) Owner(s) of horses testing positive on more than one (1) occasion within the preceding five (5) years for a prohibited substance other than phenylbutazone, flunixin, or ketoprofen, may, at the discretion of the executive director or the stewards, be required to stable all horses participating in a race meet upon the grounds of the association and/or be required to place all horses in the detention barn on the day before and/or the day of its scheduled race. A positive test under this section shall include violations in Indiana and in other jurisdictions.**

**(b) Special consideration shall be given to positive tests for Class 1, 2, or 3 drugs as listed in the Association of Racing Commissioners International's Uniform Classification Guidelines of Foreign Substances. Special consideration shall also be given to TC02 violations, blood gas violations, and to findings of any drug, medication, or foreign substance administered within twenty-four (24) hours of a horse's scheduled race.**

*(Indiana Horse Racing Commission; [71 IAC 5.5-2-6](#); emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]*

SECTION 17. [71 IAC 5.5-3-1](#) IS AMENDED TO READ AS FOLLOWS:

**[71 IAC 5.5-3-1](#) Eligibility**

Authority: [IC 4-31-6-2](#)

Affected: [IC 4-31](#)

Sec. 1. (a) An applicant for a license as trainer or assistant trainer shall:

- (1) be at least eighteen (18) years of age; and
- (2) be qualified, as determined by the stewards or other commission designee, by reason of experience, background, and knowledge of racing.

(b) A trainer's license from another jurisdiction, having been issued within a prior period as determined by the commission, may be accepted as evidence of experience and qualifications. Evidence of qualifications may require passing one (1) or more of the following:

- (1) A written examination.
- (2) An interview or oral examination.
- (3) A demonstration of practical skills in a barn test.

(c) An applicant not previously licensed as a trainer shall be required to pass a written or oral examination and a demonstration of practical skills, administered by the stewards, prior to being licensed as a trainer.

**(d) Each licensed trainer is responsible for disclosure to the commission or its designee of the true and entire ownership of each of his or her horses registered with the racing secretary. Any change in ownership of a horse registered with the racing secretary shall be approved by the stewards. Each owner shall comply with all licensing requirements.**

**(e) Each licensed owner and trainer is responsible for disclosure to the commission or its designee of the true and bona fide trainer of each of his or her horses registered with the racing secretary. Any change in the trainer of a horse registered with the racing secretary shall be approved by the stewards. Each trainer shall comply with all licensing requirements.**

(f) The commission or its designee may refuse, deny, suspend, or revoke a trainer's license for the spouse, member of the immediate family, or household of a person ineligible to be licensed as a trainer, unless there is a showing, by clear and convincing evidence, on the part of the licensed trainer, applicant, or licensed owner (and the commission determines) that participation in racing will not permit a person to serve as a substitute for an ineligible person. The transfer of a horse to a trainer who would circumvent the intent of a commission rule or ruling is prohibited.

(g) To the extent the commission or its designee obtains information that raises a reasonable suspicion that any other person may be serving as a substitute for a person ineligible to be licensed as a trainer, any horse that the substitute is training may be placed on the stewards' list. In such event, any horse involving an issue of the true and bona fide trainer is ineligible to race until such time that the issue is proven by the entrant of the horse by clear and convincing evidence in accordance with the provisions of [71 IAC 7.5-5-2](#).

*(Indiana Horse Racing Commission; [71 IAC 5.5-3-1](#); emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2855, eff Jul 1, 1995; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]*

SECTION 18. [71 IAC 5.5-3-3](#) IS AMENDED TO READ AS FOLLOWS:

### **[71 IAC 5.5-3-3](#) Other responsibilities**

**Authority:** [IC 4-31-3-9](#)

**Affected:** [IC 4-31](#)

Sec. 3. (a) A trainer is responsible for the following:

- (1) The condition and contents of stalls, tack rooms, feed rooms, sleeping rooms, and other areas which have been assigned by the association.
- (2) Maintaining the assigned stable area in a clean, neat, and sanitary condition at all times.
- (3) Ensuring that fire prevention rules are strictly observed in the assigned stable area.
- (4) Providing a list to the commission of the trainer's employees on association grounds and any other area under the jurisdiction of the commission. The list shall include each employee's:
  - (A) name;
  - (B) occupation;
  - (C) Social Security number; and
  - (D) occupational license number.

The commission shall be notified by the trainer, in writing, within twenty-four (24) hours of any change.

- (5) The proper identity, custody, care, health, condition, and safety of horses in his or her charge.
- (6) Disclosure of the true and entire ownership of each horse in his or her care, custody, or control. Any change in ownership shall be reported immediately to, and approved by, the stewards and recorded by the racing secretary.
- (7) Training all horses owned wholly or in part by him or her which are participating at the race meeting.
- (8) Registering with the racing secretary each horse in his or her charge within twenty-four (24) hours of the horse's arrival on association grounds.
- (9) Ensuring that, at the time of arrival at a licensed race track, each horse in his or her care is accompanied by a valid health certificate, which shall be filed with the racing secretary.
- (10) Having each horse in his or her care that is racing, or is stabled on association grounds, tested for equine infectious anemia (EIA) in accordance with state law and for filing evidence of such negative test results with the racing secretary.
- (11) Using the services of those veterinarians licensed by the commission to attend horses that are on association grounds.
- (12) Immediately reporting the alteration of the sex of a horse in his or her care to the horse identifier and the racing secretary, whose office shall note such alteration on the certificate of registration.
- (13) Promptly reporting to the racing secretary and the commission veterinarian any horse on which a posterior designated neurectomy (heel nerving) has been performed and ensuring that such fact is designated on its certificate of registration.
- (14) Promptly reporting to the stewards and the commission veterinarian the serious illness of any horse in his or her charge.

- (15) Promptly reporting the death of any horse in his or her care on association grounds to the stewards and the commission veterinarian and compliance with [71 IAC 8.5](#) governing postmortem examinations.
- (16) Maintaining a knowledge of the medication record and status of all horses in his or her care.
- (17) Immediately reporting to the stewards and the commission veterinarian if he or she knows, or has cause to believe, that a horse in his or her custody, care, or control has received any prohibited drugs or medication.
- (18) Representing an owner in making entries and scratches and in all other matters pertaining to racing.
- (19) Horses entered as to eligibility.
- (20) Ensuring the fitness of a horse to perform creditably.
- (21) Ensuring that his or her horses are properly shod, bandaged, and equipped.
- (22) Presenting his or her horse in the paddock at the appointed time before the race in which the horse is entered.
- (23) Personally attending to his or her horses in the paddock unless excused by the stewards.
- (24) Instructing the jockey to give his or her best effort during a race and that each horse shall be ridden to win.
- (25) Attending the collection of a urine or blood sample from the horse in his or her charge or delegating a licensed employee or the owner of the horse to do so.
- (26) Promptly notifying the owner of a horse of a positive test performed on his or her horse indicating levels in violation of [71 IAC 8.5](#).
- (27) Notifying horse owners upon the revocation or suspension of his or her trainer's license.
- (28) Guard and protect all horses in his/her care.
- (29) Account for fees and services rendered on behalf of any horse in his/her care to the appropriate owner or owners.
- (30) Determine the training regimen of all horses in his/her care.
- (31) The licensure of owners and employees prior to participating on race day.
- (32) Immediately notifying the stewards, or in their absence commission or track security, of any contact a practicing veterinarian or his or her helper has with a horse within twenty-four (24) hours of its scheduled race except for the administration of furosemide in accordance with commission rules.

(b) Upon application by the owner, the stewards may approve the transfer of such horses to the care of another licensed trainer, and upon such approved transfer such horses may be entered to race.

(c) No trainer shall assign any of his/her duties or responsibility to any person that is disqualified or ineligible to participate in racing or is not appropriately licensed.

(d) No trainer shall assume any of the above responsibilities for a horse not under his/her active care, custody, and supervision.

(e) No trainer shall practice his profession, except under his own name.

**(f) No trainer shall permit a veterinarian whose license is suspended in any jurisdiction or who is excluded from the stable area of tracks under the jurisdiction of the commission to treat any horse, regardless of its location, that has or will be actively participating in racing in Indiana during a given calendar year.**

*(Indiana Horse Racing Commission; [71 IAC 5.5-3-3](#); emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2856, eff Jul 1, 1995; emergency rule filed June 8, 1999, 9:30 a.m.: 22 IR 3121, eff May 26, 1999 [NOTE: [IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the secretary of state. LSA Document #99-107(E) was filed with the secretary of state June 8, 1999.]; emergency rule filed Jun 22, 2000, 3:05 p.m.: 23 IR 2778; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Jan 21, 2004, 2:30 p.m.: 27 IR 1914; emergency rule filed Mar 10, 2006, 11:00 a.m.: 29 IR 2214; errata filed Apr 10, 2006, 2:00 p.m.: 29 IR 2546; emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]*

SECTION 19. [71 IAC 6-1-4](#) IS AMENDED TO READ AS FOLLOWS:

#### **[71 IAC 6-1-4](#) Excusing claimed horse**

**Authority: [IC 4-31-3-9](#)**

Sec. 4. (a) If a horse in a claiming race is scratched by the judges for any reason, including being declared a non-starter, any claims on the said horse are void. However, that horse in its next start, regardless of the condition of the race entered, may be claimed for the same price as the race from which it was scratched from. The rule shall apply for a period of thirty (30) days from the date of the race in which the horse was scratched ~~scratch~~ or declared a nonstarter or the end **declaration of a nonstarter until the last day of the final harness meet licensed by the commission.** This rule shall not include horses scratched due to entry error or ineligibility, which is verified by the race office.

(b) Any horse scratched and taken out of state to race shall upon its return to Indiana be bound by (a) of this rule [subsection (a)] within the same year.

*(Indiana Horse Racing Commission; [71 IAC 6-1-4](#); emergency rule filed May 10, 2005, 3:20 p.m.: 28 IR 2748; emergency rule filed Mar 10, 2006, 11:00 a.m.: 29 IR 2217; errata filed Apr 10, 2006, 2:00 p.m.: 29 IR 2546; emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]*)

SECTION 20. [71 IAC 7-1-13](#) IS AMENDED TO READ AS FOLLOWS:

**[71 IAC 7-1-13](#) Coupled entries**

Authority: [IC 4-31-3-9](#)

Affected: [IC 4-31](#)

Sec. 13. (a) Two (2) or more horses which are entered in a race shall be joined as a mutuel entry and single betting interest if they are owned or leased in whole or in part by the same owner or are trained by a trainer who owns or leases any interest in any of the other horses in the race. ~~The association, with the permission of the judges, may uncouple~~ Horses trained by the same trainer but owned entirely by different owners ~~provided that the trainer does not hold an ownership interest in either horse. The uncoupling of such horses shall be prohibited in trifecta races.~~ **coupled as a single betting unit.**

(b) No more than two (2) horses having common ties through ownership or training may be entered in an overnight race. Under no circumstances may both horses of a coupled entry start to the exclusion of a single entry. When making a coupled entry, a preference for one (1) of the horses must be made.

*(Indiana Horse Racing Commission; [71 IAC 7-1-13](#); emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1152; emergency rule filed Mar 25, 1996, 10:15 a.m.: 19 IR 2078; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]*)

SECTION 21. [71 IAC 7-1-35](#) IS AMENDED TO READ AS FOLLOWS:

**[71 IAC 7-1-35](#) Eligibility for racing and ownership status**

Authority: [IC 4-31-3-9](#); [IC 4-31-11](#)

Affected: [IC 4-31](#)

Sec. 35. (a) The commission, its executive secretary, the stewards, judges, and the commission's director of security (collectively, the "commission or the commission's designee"), shall have the right to require an entrant of a horse to verify information contained within the entry blank forms and declarations as well as other eligibility requirements for a particular race. In addition, the commission, or the commission's designee, shall have the right to make a determination of whether a certain horse is or was eligible to participate in a race. The burden of proving eligibility, by clear and convincing evidence, in such a situation, will be on the entrant.

(b) The commission, or the commission's designee, may require sufficient evidence from an entrant of ownership status, residency, or other information required for eligibility prior to allowing a horse to compete in a restricted race or in any race at the meet.

(c) After a race, the commission, or the commission's designee, may, upon reasonable suspicion, conduct an inquiry and make a determination as to ownership status, residency, or other information required for eligibility of an entrant.

(d) In considering the matter of ownership status, the commission, or the commission's designee, may review any information which it deems relevant, including, but not limited to, the following:

- (1) a bill of sale;
- (2) a proof of funds transfer, including, but not limited to, a canceled check, a wire transfer, or other similar form of proof; and
- (3) a completed ownership transfer on the USTA or Jockey Club registration certificate, whichever is applicable.

(e) An entry must be one hundred percent (100%) owned by an Indiana resident and/or residents to be entered in any Indiana owned race. Corporate or partnership ownership requires all shareholders or partners, respectively, to be residents to be entered in any Indiana owned race. If a lease is involved for a standardbred horse, all lessors and lessees must be Indiana residents.

~~(f) All Indiana owned thoroughbreds shall be registered with the commission and be wholly owned at time of registration as Indiana owned but no later than June 1 of each year (claimed and public sale horses excepted) and remained wholly owned by an Indiana resident(s) through its participation in any Indiana owned race in said year. In 1998, an Indiana owned standardbred must be wholly owned by an Indiana resident(s) by April 1, 1998, (claimed and public sale horses excepted) and remained wholly owned by an Indiana resident(s) through its participation in any Indiana owned race in said year. In 1999 and thereafter, an Indiana owned standardbred~~  
**standardbreds** must be wholly owned by an Indiana resident(s) by January 1 (claimed and public sale horses excepted) and remain so through its participation in any Indiana owned race in any given year. The association or a breed development advisory committee may establish a date for a special race or series of races other than that established by the commission provided that such date is no later than that established by the commission and such date must be published on the nomination blank.

(g) All Indiana owned horses must be fully paid for by the Indiana owner(s) no later than the date established by the commission in subsection (f). The payment of the purchase price over time or through earnings beyond the date established in subsection (f) is prohibited and such horses shall be deemed ineligible to be nominated, entered, or raced as Indiana owned.

(h) In considering the matter of residency:

- (1) "Residence", as the term is used in the context of this statement, means the place where an individual has their permanent home, at which that person remains when not called elsewhere for labor or other special or temporary purposes, and to which that person returns in seasons of repose. It is a place a person has voluntarily fixed as a permanent habitation with an intent to remain in such place for an indefinite period. A person at any one (1) time has but one (1) residence and a residence cannot be lost until another is gained.
- (2) The commission, or the commission's designee, may review the information which is deemed relevant, including, but not limited to, the following:
  - (A) where the person lives and has been living;
  - (B) the location of the person's source(s) of income;
  - (C) the address used by the person for the payment of taxes, including federal, state, and property taxes;
  - (D) the state in which the person's personal automobiles are registered;
  - (E) the state issuing the person a driver's license;
  - (F) the state in which the person is registered to vote;
  - (G) ownership of property in Indiana and outside Indiana;
  - (H) the residence used for USTA membership and USTA or Jockey Club registration of a horse, whichever is applicable;
  - (I) the residence claimed by a person on a loan application or other similar document; or
  - (J) membership in civic, community, and other organizations in Indiana and elsewhere.

(3) None of these factors, when considered alone, shall be dispositive. Consideration of all of the factors together, as well as a person's expressed intention, shall be considered in arriving at a determination.

(4) ~~Beginning with the 1998 racing season,~~ Owners will be **are** required to meet the residence requirements as of January 1 for that year's racing season.

(i) Each owner and trainer, or the authorized agent of an owner or trainer, or the nominator (collectively, the "entrant"), is required to disclose the true and entire ownership **and the true and bona fide trainer** of each horse with the racing secretary, and to disclose any changes in the owners **or trainer** of each registered horse to both the racing secretary, the stewards, or judges. A licensee or racing official, including the racing secretary, shall immediately report any questions concerning the ownership status **or the identity of the true and bona fide trainer** of a horse to the stewards or judges, and the stewards or judges may place such a horse on the steward's or judge's list. A horse placed on the steward's or judge's list shall be ineligible to start in a race until questions concerning the ownership status **or the identity of the true and bona fide trainer** of the horse are answered to the satisfaction of the commission, or the commission's designee, and the horse is removed from the steward's or judge's list.

(j) If the commission, or the commission's designee, finds a lack of sufficient evidence of ownership status, residency, or other information required for eligibility, prior to a race, the commission, or the commission's designee, may order the entrant's horse scratched from the race or ineligible to participate.

(k) After a race, the commission, or the commission's designee, may, upon reasonable suspicion, withhold purse money pending an inquiry of ownership status, residency, or other information required for eligibility. If the purse money is ultimately forfeited, because of a determination of the commission, or the commission's designee, the purse money shall be redistributed per order of the commission or the commission's designee.

(l) If the purse money has been paid prior to reasonable suspicion, the commission, or the commission's designee, may conduct an inquiry and make a determination. If the commission, or the commission's designee, determines there has been a violation of ownership status, residency, or other information required for eligibility, it shall order the purse money returned and redistributed per order of the commission or the commission's designee.

(m) Any entrant, which is found to have violated the qualification for a race, including knowingly providing false information or refusing to provide or concealing information, is also subject to sanctions by the commission.

*(Indiana Horse Racing Commission; [71 IAC 7-1-35](#); emergency rule filed May 12, 1997, 3:15 p.m.: 20 IR 2822; emergency rule filed Feb 13, 1998, 10:00 a.m.: 21 IR 2407; errata filed Mar 5, 1998, 1:45 p.m.: 21 IR 2392; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]*

SECTION 22. [71 IAC 7-4-4](#) IS AMENDED TO READ AS FOLLOWS:

#### **[71 IAC 7-4-4](#) Protests**

**Authority:** [IC 4-31-3-9](#)

**Affected:** [IC 4-31](#)

Sec. 4. (a) A protest against any horse which has started in a race shall be made to the judges in writing, signed by the protestor, within seventy-two (72) hours of the race exclusive of nonracing days. If the incident upon which the protest is based occurs within the last two (2) days of the meeting, such protest may be filed with the commission within seventy-two (72) hours exclusive of Saturdays, Sundays, or official holidays. Any such protest shall set forth the specific reason or reasons for the protest in such detail as to establish probable cause for the protest.

(b) A protest may be made on any of the following grounds:

(1) Any grounds for objection as set forth in section 3 of this rule.

~~(2) The order of finish as officially determined by the judges was incorrect due to oversight or errors in the~~



~~numbers of the horses which started the race.~~

~~(3) (2)~~ A driver, owner, or lessor was ineligible to participate in racing as provided in this article.

~~(4) (3)~~ An unfair advantage was gained in violation of this article.

(c) Notwithstanding any other provision in this article, the time limitation on the filing of protests shall not apply in any case in which fraud or willful misconduct is alleged provided that the judges are satisfied that the allegations are bona fide and verifiable.

(d) No person shall file any objection or protest knowing the same to be inaccurate, false, untruthful, or frivolous.

**(e) The judges shall exercise their sole discretion in making such investigation or inquiry that they deem to be appropriate relative to a timely filed protest. After the judges have gathered the information that they determine necessary in order to render a decision on the protest, they shall make a determination as soon as reasonably possible and communicate that determination to the person lodging the protest and any other persons that may be impacted by that decision. No person has a right to have a hearing conducted on the protest, and no appeal of the judges decision on the protest may be taken.**

~~(e)~~ (f) The judges may order any purse, award, or prize for any race withheld from distribution pending the determination of any protest. In the event any purse, award, or prize has been distributed to an owner or for a horse which by reason of a protest or other reason is disqualified or determined to be not entitled to such purse, award, or prize, the judges or the commission may order such purse, award, or prize returned and redistributed to the rightful owner or horse. Any person who fails to comply with an order to return any purse, award, or prize erroneously distributed shall be subject to fines and suspension.

*(Indiana Horse Racing Commission; [71 IAC 7-4-4](#); emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1167; emergency rule filed Aug 10, 1994, 3:30 p.m.: 17 IR 2914; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]*

SECTION 23. [71 IAC 7.5-1-4](#) IS AMENDED TO READ AS FOLLOWS:

### **[71 IAC 7.5-1-4](#) Coupled entries**

**Authority:** [IC 4-31-3-9](#)

**Affected:** [IC 4-31](#)

Sec. 4. (a) Two (2) or more horses which are entered in a race shall be joined as a mutuel and single betting interest if they are owned or leased in whole or in part by the same owner. **Horses trained by the same trainer but owned entirely by different owners shall be coupled as a single betting interest; however, the association, with the permission of the stewards, may uncouple such horses trained by the same trainer but owned entirely by different owners. The uncoupling of such horses shall be prohibited in quarter horse triecta races.**

(b) No more than two (2) horses having common ties through ownership or training may be entered in an overnight race. Other than quarter horse time trials and time trial finals, in no circumstance may two (2) horses having common ties of ownership start to the exclusion of a single entry. Preference for horses with the same trainer, but having no common ties of ownership, will be determined by the conditions of the race and/or preference date and may exclude a single entry.

(c) A trainer may not train for another trainer licensed in the state of Indiana.

*(Indiana Horse Racing Commission; [71 IAC 7.5-1-4](#); emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2865, eff Jul 1, 1995; emergency rule filed Aug 9, 1995, 10:30 a.m.: 18 IR 3406; emergency rule filed May 20, 1996, 10:00 a.m.: 19 IR 2892; emergency rule filed Jun 22, 2000, 3:05 p.m.: 23 IR 2780; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Feb 21, 2003, 4:15 p.m.: 26 IR 2383; emergency rule filed Aug 21, 2003, 4:45 p.m.: 27 IR 205; emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16,*

SECTION 24. [71 IAC 7.5-5-2](#) IS ADDED TO READ AS FOLLOWS:

**Rule 5. Eligibility for Racing**

**[71 IAC 7.5-5-2](#) Eligibility for racing and ownership status**

Authority: [IC 4-31-3-9](#); [IC 4-31-11](#)

Affected: [IC 4-31](#)

**Sec. 2. (a) The commission, its executive director, the stewards, judges, and the commission's director of security (collectively, the "commission or the commission's designee"), shall have the right to require an entrant of a horse to verify information contained within the entry blank forms and declarations as well as other eligibility requirements for a particular race. In addition, the commission, or the commission's designee, shall have the right to make a determination of whether a certain horse is or was eligible to participate in a race. The burden of proving eligibility, by clear and convincing evidence, in such a situation, will be on the entrant.**

**(b) The commission, or the commission's designee, may require sufficient evidence from an entrant of ownership status, residency, or other information required for eligibility prior to allowing a horse to compete in a restricted race or in any race at the meet.**

**(c) After a race, the commission, or the commission's designee, may, upon reasonable suspicion, conduct an inquiry and make a determination as to ownership status, residency, or other information required for eligibility of an entrant.**

**(d) In considering the matter of ownership status, the commission, or the commission's designee, may review any information which it deems relevant, including, but not limited to, the following:**

- (1) a bill of sale;**
- (2) a proof of funds transfer, including, but not limited to, a canceled check, a wire transfer, or other similar form of proof; and**
- (3) a completed ownership transfer on the USTA or Jockey Club registration certificate, whichever is applicable.**

**(e) Each owner and trainer, or the authorized agent of an owner or trainer, or the nominator (collectively, the "entrant"), is required to disclose the true and entire ownership and the true and bona fide trainer of each horse with the racing secretary, and to disclose any changes in the owners or trainer of each registered horse to both the racing secretary, the stewards, or judges. A licensee or racing official, including the racing secretary, shall immediately report any questions concerning the ownership status or the identity of the true and bona fide trainer of a horse to the stewards or judges, and the stewards or judges may place such a horse on the steward's or judge's list. A horse placed on the steward's or judge's list shall be ineligible to start in a race until questions concerning the ownership status or the identity of the true and bona fide trainer of the horse are answered to the satisfaction of the commission, or the commission's designee, and the horse is removed from the steward's or judge's list.**

**(f) If the commission, or the commission's designee, finds a lack of sufficient evidence of ownership status, residency, or other information required for eligibility, prior to a race, the commission, or the commission's designee, may order the entrant's horse scratched from the race or ineligible to participate.**

**(g) After a race, the commission, or the commission's designee, may, upon reasonable suspicion, withhold purse money pending an inquiry of ownership status, residency, or other information required for eligibility. If the purse money is ultimately forfeited, because of a determination of the commission, or the commission's designee, the purse money shall be redistributed per order of the commission or the commission's designee.**

**(h) If the purse money has been paid prior to reasonable suspicion, the commission, or the commission's designee, may conduct an inquiry and make a determination. If the commission, or the commission's designee, determines there has been a violation of ownership status, residency, or other information required for eligibility, it shall order the purse money returned and redistributed per order of the commission or the commission's designee.**

**(i) Any entrant, which is found to have violated the qualification for a race, including knowingly providing false information or refusing to provide or concealing information, is also subject to sanctions by the commission.**

*(Indiana Horse Racing Commission; [71 IAC 7.5-5-2](#); emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]*

SECTION 25. [71 IAC 7.5-8-4](#) IS AMENDED TO READ AS FOLLOWS:

**[71 IAC 7.5-8-4](#) Protests**

**Authority: [IC 4-31-3-9](#)**

**Affected: [IC 4-31](#)**

Sec. 4. (a) A protest against any horse which has started in a race shall be made to the stewards in writing, signed by the protestor, within seventy-two (72) hours of the race exclusive of nonracing days. If the incident upon which the protest is based occurs within the last two (2) days of the meeting, such protest may be filed with the commission within seventy-two (72) hours exclusive of Saturdays, Sundays, or official holidays. Any such protest shall set forth the specific reason or reasons for the protest in such detail as to establish probable cause for the protest.

(b) A protest may be made on any of the following grounds:

(1) Any grounds for objection as set forth in section 3 of this rule.

~~(2) The order of finish as officially determined by the stewards was incorrect due to oversight or errors in the numbers of the horses which started the race.~~

~~(3) (2)~~ A jockey, owner, or lessor was ineligible to participate in racing as provided in this article.

~~(4) (3)~~ The horse carried less than the proper weight from post to finish.

~~(5) (4)~~ An unfair advantage was gained in violation of this article.

(c) Notwithstanding any other provision in this article, the time limitation on the filing of protests shall not apply in any case in which fraud or willful misconduct is alleged provided that the stewards are satisfied that the allegations are bona fide and verifiable.

(d) No person shall file any objection or protest knowing the same to be inaccurate, false, untruthful, or frivolous.

**(e) The stewards shall exercise their sole discretion in making such investigation or inquiry that they deem to be appropriate relative to a timely filed protest. After the stewards have gathered the information that they determine necessary in order to render a decision on the protest, they shall make a determination as soon as reasonably possible and communicate that determination to the person lodging the protest and any other persons who may be impacted by that decision. No person has a right to have a hearing conducted on the protest, and no appeal of the stewards' decision on the protest may be taken.**

~~(e)~~ **(f) The stewards may order any purse, award, or prize for any race withheld from distribution pending the determination of any protest. In the event any purse, award, or prize has been distributed to an owner or for a horse which by reason of a protest or other reason is disqualified or determined to be not entitled to such purse, award, or prize, the stewards or the commission may order such purse, award, or prize returned and redistributed to the rightful owner or horse. Any person who fails to comply with an order to return any purse, award, or prize erroneously distributed shall be subject to fines and suspension.**

(Indiana Horse Racing Commission; [71 IAC 7.5-8-4](#); emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2876, eff Jul 1, 1995; emergency rule filed Aug 9, 1995, 10:30 a.m.: 18 IR 3412; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]

SECTION 26. [71 IAC 8-1-3](#) IS AMENDED TO READ AS FOLLOWS:

### [71 IAC 8-1-3](#) Foreign substances allowed

Authority: [IC 4-31-3-9](#)

Affected: [IC 4-31-12](#)

Sec. 3. Phenylbutazone, flunixin, ketoprofen, and furosemide, when used in accordance with the test levels and guidelines set forth in sections 4 and 5 of this rule, are permitted foreign substances. **Vitamin B1 and calcium when administered in accordance with commission approved policy are permitted foreign substances for race day administration.**

(Indiana Horse Racing Commission; [71 IAC 8-1-3](#); emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1168; emergency rule filed Feb 13, 1998, 10:00 a.m.: 21 IR 2411; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Jul 28, 2006, 11:17 a.m.: [20060809-IR-071060278ERA](#), eff Aug 1, 2006; emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]

SECTION 27. [71 IAC 8-5-5](#) IS AMENDED TO READ AS FOLLOWS:

### [71 IAC 8-5-5](#) Records of treatment

Authority: [IC 4-31-3-9](#)

Affected: [IC 4-31-12](#)

Sec. 5. (a) Every veterinarian licensed by the commission who treats any horse or performs other professional services within the enclosure of an organization licensee during a race meeting, **or treats horses off the grounds that are actively participating at a race meeting**, shall be responsible for maintaining treatment records or a log book on all horses for which they prescribe, administer, or dispense medication or perform other professional services. The treatment records or log book information shall include, but not be limited to, the following:

- (1) The date and time of treatment service.
- (2) Name of race track.
- (3) The veterinarian's printed name and signature.
- (4) The registered name of horse.
- (5) The trainer's name.
- (6) The barn number or location of horse.
- (7) The race date and race number, if any.
- (8) The medication and dosage.
- (9) The reason for treatment or services.

These records shall be current at all times and available to the commission and the judges upon request. These records shall be retained for at least one (1) year after the conclusion of the race meet and be made available to the commission and judges upon request. Such records shall be delivered to the commission either upon demand or within twenty-four (24) hours of the request.

(b) Veterinarians shall retain duplicate copies of bills or statements to trainers or owners which shall be retained for at least one (1) year and made available to the commission upon request. Such records shall be delivered to the commission within forty-eight (48) hours of the request.

(c) Any drug or medication which is used or kept on association grounds and which, by federal or state law,

requires a prescription, must have been validly prescribed by a duly licensed veterinarian and be in compliance with the applicable state statutes. All such allowable medications must have a prescription label which is securely attached and clearly ascribed to show the following:

- (1) The name of the product.
- (2) The name, address, and telephone number of the veterinarian prescribing or dispensing the product.
- (3) The name of each patient (horse) for whom the product is intended or prescribed.
- (4) The doses, dosage, duration of treatment, and expiration date of the prescribed or dispensed product.
- (5) The name of the person (trainer) to whom the product was dispensed.

*(Indiana Horse Racing Commission; [71 IAC 8-5-5](#); emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1174; emergency rule filed Aug 10, 1994, 3:30 p.m.: 17 IR 2917; emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2879, eff Jul 1, 1995; emergency rule filed Feb 13, 1998, 10:00 a.m.: 21 IR 2413; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Mar 10, 2006, 11:00 a.m.: 29 IR 2219; emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]*)

SECTION 28. [71 IAC 8-12-5](#) IS AMENDED TO READ AS FOLLOWS:

### **[71 IAC 8-12-5](#) Indiana Sires Stakes and Genesis Series**

**Authority:** [IC 4-31-3-9](#)

**Affected:** [IC 4-31](#)

Sec. 5. (a) In order to be eligible to participate in any Indiana Sires Stakes finals and the Genesis Series finals, a horse must provide a blood sample on the date of the last leg of the series for the purpose of determining the presence of the antibody to erythropoietin or darbepoietin.

(b) A horse not participating in the last leg of the series must report to the track on the date of the last leg of the series at a time and location determined by the commission to provide a blood sample for the purpose of determining the presence of the antibody to erythropoietin or darbepoietin.

**(c) If an elimination for the Aged Sires Stakes is held, then those horses participating in the elimination must be tested on the date of the elimination. However, if the elimination is not contested due to lack of entries, those horses entered are not required to report for testing.**

~~(e)~~ **(d)** This rule supercedes the conditions of the Indiana Sires Stakes and Genesis Series.

*(Indiana Horse Racing Commission; [71 IAC 8-12-5](#); emergency rule filed Apr 21, 2004, 3:45 p.m.: 27 IR 2755; emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]*)

SECTION 29. [71 IAC 8.5-1-3](#) IS AMENDED TO READ AS FOLLOWS:

### **[71 IAC 8.5-1-3](#) Foreign substances allowed**

**Authority:** [IC 4-31-3-9](#)

**Affected:** [IC 4-31-12](#)

Sec. 3. Phenylbutazone, flunixin, ketoprofen, and furosemide, when used in accordance with the test levels and guidelines set forth in sections 4.1 and 5 of this rule, are permitted foreign substances. **Vitamin B1 and calcium when administered in accordance with commission approved policy are permitted foreign substances for race day administration.**

*(Indiana Horse Racing Commission; [71 IAC 8.5-1-3](#); emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2880, eff Jul 1, 1995; emergency rule filed Feb 13, 1998 10:00 a.m.: 21 IR 2420; readopted filed Oct 30, 2001, 11:50 a.m.:*

25 IR 899; emergency rule filed Jul 28, 2006, 11:17 a.m.: [20060809-IR-071060278ERA](#), eff Aug 1, 2006; emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]

SECTION 30. [71 IAC 8.5-4-5](#) IS AMENDED TO READ AS FOLLOWS:

### **[71 IAC 8.5-4-5](#) Records of treatment**

**Authority:** [IC 4-31-3-9](#)

**Affected:** [IC 4-31-12](#)

Sec. 5. (a) Every veterinarian licensed by the commission who treats any horse or performs other professional services within the enclosure of an organization licensee during a race meeting, **or treats horses off the grounds that are actively participating at a race meeting**, shall be responsible for maintaining treatment records or a log book on all horses for which they prescribe, administer, or dispense medication or perform other professional services. The treatment records or log book information shall include, but not be limited to, the following:

- (1) The date and time of treatment service.
- (2) Name of race track.
- (3) The veterinarian's printed name and signature.
- (4) The registered name of horse.
- (5) The trainer's name.
- (6) The barn number or location of horse.
- (7) The race date and race number, if any.
- (8) The medication and dosage.
- (9) The reason for treatment or services.

These records shall be current at all times and available to the commission and the stewards upon request. These records shall be retained for at least one (1) year after the conclusion of the race meet and be made available to the commission and stewards upon request. Such records shall be delivered to the commission either upon demand or within twenty-four (24) hours of the request.

(b) Veterinarians shall retain duplicate copies of bills or statements to trainers or owners which shall be retained for at least one (1) year and made available to the commission upon request. Such records shall be delivered to the commission within forty-eight (48) hours of the request.

(c) Any drug or medication which is used or kept on association grounds and which, by federal or state law, requires a prescription, must have been validly prescribed by a duly licensed veterinarian and be in compliance with the applicable state statutes. All such allowable medications must have a prescription label which is securely attached and clearly ascribed to show the following:

- (1) The name of the product.
- (2) The name, address, and telephone number of the veterinarian prescribing or dispensing the product.
- (3) The name of each patient (horse) for whom the product is intended or prescribed.
- (4) The doses, dosage, duration of treatment, and expiration date of the prescribed or dispensed product.
- (5) The name of the person (trainer) to whom the product was dispensed.

(Indiana Horse Racing Commission; [71 IAC 8.5-4-5](#); emergency rule filed Jun 15, 1995, 5:00 p.m.: 18 IR 2885, eff Jul 1, 1995; emergency rule filed Feb 13, 1998 10:00 a.m.: 21 IR 2421; emergency rule filed Aug 23, 2001, 9:58 a.m.: 25 IR 121; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Mar 10, 2006, 11:00 a.m.: 29 IR 2224; emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]

SECTION 31. [71 IAC 9-1-4](#) IS AMENDED TO READ AS FOLLOWS:

### **[71 IAC 9-1-4](#) Pari-mutuel ticket sales**

**Authority:** [IC 4-31-3-9](#)

**Affected:** [IC 4-31](#)

Sec. 4. (a) Pari-mutuel tickets shall not be sold by anyone other than an association licensed to conduct pari-mutuel wagering.

(b) No pari-mutuel ticket may be sold on a contest for which wagering has already been closed and no association shall be responsible for ticket sales entered into but not completed by issuance of a ticket before the totalizator is closed for wagering on such contest.

(c) Claims pertaining to a mistake on an issued or unissued ticket must be made by the bettor prior to leaving the seller's window.

(d) Payment on winning pari-mutuel wagers shall be made on the basis of the order of finish as purposely posted and declared official. Any subsequent change in the order of finish or award of purse money as may result from a subsequent ruling by the judges or commission shall in no way affect the pari-mutuel payoff. If an error in the posted order of finish or payoff figures is discovered, the official order of finish or payoff prices may be corrected and an announcement concerning the change shall be made to the public.

(e) The association shall not satisfy claims on ~~lost~~, mutilated, or altered pari-mutuel tickets without authorization of the commission.

**(f) Claims on lost pari-mutuel tickets shall adhere to guidelines approved by the commission.**

~~(g)~~ (g) The association shall have no obligation to enter a wager into a betting pool if unable to do so due to equipment failure.

~~(g)~~ (h) When payments on winning pari-mutuel wagers require Internal Revenue Service returns or reporting, identification of the recipient shall be confirmed by the association by examination of an appropriate government-issued personal identification document such as a driver's license, a passport, or an identification card.

~~(h)~~ (i) No person other than the true owner and beneficiary of a pari-mutuel ticket shall sign a Form W2G or Form 5754. No person shall knowingly aid, in any way, in any misrepresentation regarding Internal Revenue Service (IRS) forms. Any known or suspected misrepresentation or irregularity regarding IRS forms shall be reported to the commission within forty-eight (48) hours.

*(Indiana Horse Racing Commission; [71 IAC 9-1-4](#); emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1178; errata filed Mar 9, 1994, 2:50 p.m.: 17 IR 1622; emergency rule filed Aug 10, 1994, 3:30 p.m.: 17 IR 2918; emergency rule filed Mar 25, 1997, 10:00 a.m.: 20 IR 2159; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]*

SECTION 32. [71 IAC 9-1-13](#) IS AMENDED TO READ AS FOLLOWS:

**[71 IAC 9-1-13](#) Pools dependent on betting interests**

**Authority:** [IC 4-31-3-9](#)

**Affected:** [IC 4-31](#)

Sec. 13. (a) Unless the commission otherwise provides, one-half (½) hour prior to post time for the first race, the association:

- (1) may offer win, place, and show wagering on all contests with six (6) or more betting interests;
- (2) may be allowed to prohibit show wagering on any contest with five (5) or fewer betting interests scheduled to start;
- (3) may be allowed to prohibit place wagering on any contest with four (4) or fewer betting interests scheduled to start;

- (4) may be allowed to prohibit quinella wagering on any contest with three (3) or fewer betting interests scheduled to start;
- (5) may be allowed to prohibit quinella double wagering on any contests with three (3) or fewer betting interests scheduled to start;
- (6) may be allowed to prohibit exacta wagering on any contest with three (3) or fewer betting interests scheduled to start;
- (7) shall prohibit trifecta wagering on any contest with ~~six (6)~~ **five (5)** or fewer betting interests scheduled to start;
- (8) may be allowed to prohibit twin quinella wagering on any contests with three (3) or fewer betting interests scheduled to start;
- (9) shall prohibit twin trifecta wagering on any contests with ~~six (6)~~ **five (5)** or fewer betting interests scheduled to start;
- (10) shall prohibit superfecta wagering on any contest with ~~seven (7)~~ **six (6)** or fewer betting interests to start;
- and
- (11) may be allowed to prohibit odd-even wagering on any contest with four (4) or fewer betting ~~interest.~~ **interests.**

~~(b) Notwithstanding subdivisions (a)(7), (9), and (10), the association may permit trifecta, twin trifecta, and superfecta wagering on stake races with as few as six (6) betting interests.~~

~~(e)~~ **(b)** Notwithstanding subsection (a), the timing of advance performance wagering shall be governed by [71 IAC 9-1-5](#) [section 5 of this rule].

*(Indiana Horse Racing Commission; [71 IAC 9-1-13](#); emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1180; emergency rule filed Mar 25, 1996, 10:15 a.m.: 19 IR 2082; emergency rule filed Mar 25, 1997, 10:00 a.m.: 20 IR 2160; emergency rule filed Mar 18, 1998, 1:40 p.m.: 21 IR 3022; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]*

SECTION 33. [71 IAC 10-1-1](#) IS AMENDED TO READ AS FOLLOWS:

### [71 IAC 10-1-1](#) General provisions

**Authority:** [IC 4-31-3-9](#)

**Affected:** [IC 4-21.5](#); [IC 4-31-13-1](#)

Sec. 1. **(a)** All disciplinary hearings conducted by the judges shall be conducted in accordance with this article. All other proceedings conducted on behalf of the commission shall be conducted in accordance with this article and with ~~[IC 4-21-5](#)~~. [IC 4-21.5](#).

**(b)** A licensee, permit holder, subject of exclusion (under [IC 4-31-13-1](#) and [71 IAC 2-10-1](#)), or other person may represent himself or herself or may be represented by an attorney or representative who is in compliance with [71 IAC 10-4-1](#) [Renumbered by Publisher as [71 IAC 10-5-1](#)].

*(Indiana Horse Racing Commission; [71 IAC 10-1-1](#); emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1198; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2109; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]*

SECTION 34. [71 IAC 10-2-8](#) IS AMENDED TO READ AS FOLLOWS:

### [71 IAC 10-2-8](#) Effect of rulings

**Authority:** [IC 4-31-3-9](#)

**Affected:** [IC 4-31-13](#)



Sec. 8. (a) Rulings against a licensee apply to another person if continued participation in an activity by the other person would circumvent the intent of a ruling by permitting the person to serve, in essence, as a substitute for the ineligible licensee. ~~because:~~

- ~~(1) the other person is legally responsible for the conduct that is the subject of the ruling; or~~
- ~~(2) the other person benefited financially from the conduct that is the subject of the ruling.~~

(b) The fraudulent transfer of a horse to avoid application of a commission rule or ruling is prohibited.

(c) The judges shall honor the rulings issued by other pari-mutuel racing commissions.

(d) A ruling approving and accepting a settlement involving a licensee shall have no substantive precedent.

(e) Unless a ruling specifically states otherwise, any person suspended or determined to be ineligible for licensing shall be excluded and denied access to all facilities under the jurisdiction of the commission, including satellite facilities, during the period of suspension or ineligibility.

*(Indiana Horse Racing Commission; [71 IAC 10-2-8](#); emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1200; emergency rule filed Mar 25, 1997, 10:00 a.m.: 20 IR 2165; emergency rule filed Feb 13, 1998, 10:00 a.m.: 21 IR 2426; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]*

SECTION 35. [71 IAC 10-2-8.1](#) IS ADDED TO READ AS FOLLOWS:

**[71 IAC 10-2-8.1](#) Effect of ruling – trainers**

Authority: [IC 4-31-3-9](#)

Affected: [IC 4-31-13](#)

**Sec. 8.1. (a) The horse(s) of a trainer suspended for more than fifteen (15) days in Indiana shall not be transferred to a spouse, member of the immediate family, assistant, employee, or household member of the trainer.**

**(b) The horse(s) of a trainer suspended in another jurisdiction, may, at the discretion of the executive director, judges, or stewards, be placed on the judge's/steward's list and be ineligible to compete in Indiana if such horse(s) is trained by a licensee that is a spouse, member of the immediate family, business associate, assistant, employee, or household member of the suspended trainer.**

**(c) The executive director, judges, or stewards may require a horse(s) previously trained by a suspended trainer, a horse owned by a person employing a suspended trainer, and/or a horse owned by a person who employed the trainer at the time of suspension to be stabled on the grounds of the association.**

**(d) The above provisions of this rule shall not apply to trainers who are suspended from driving privileges only.**

*(Indiana Horse Racing Commission; [71 IAC 10-2-8.1](#); emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]*

SECTION 36. [71 IAC 10-2-9](#) IS AMENDED TO READ AS FOLLOWS:

**[71 IAC 10-2-9](#) Appeals**

Authority: [IC 4-31-3-9](#)

Affected: [IC 4-31-13](#)

Sec. 9. (a) A person who has been aggrieved or adversely affected by a ruling of the judges may appeal to the commission. A person who fails to file an appeal by the deadline and in the form required by this section waives the right to appeal the ruling.

(b) An appeal under this section must be filed not later than fifteen (15) days after the ruling ~~or decision~~ is served upon the person. The appeal must be filed with the commission. The appeal must be accompanied by a deposit of five hundred dollars (\$500) in the form of a cashier's check or money order to defray the costs of appeal. The costs of appeal shall consist of the cost of the court reporter, the cost of the transcript required for the appeal, and the cost of the administrative law judge. If a person is wholly or partially successful in prosecuting an appeal and a final order is entered on their behalf, the costs of appeal will be assessed against the commission. In all other instances, the costs of appeal will be assessed against the person bringing the appeal. The deposit provided for by this subsection will be applied toward any such assessment. To the extent that such an assessment is less than the amount of the deposit, that difference shall be refunded to the person initiating the appeal. To the extent that the assessment exceeds the amount of the deposit, the person initiating the appeal is responsible for remitting the balance to the commission within ten (10) days of such a request after the issuance of a final order.

(c) An appeal must be in writing on a form prescribed by the commission. The appeal must include:  
(1) the name, address, telephone number, and signature of the person making the appeal; and  
(2) a statement of the basis for the appeal, identified with reasonable particularity.

(d) On notification by the commission that an appeal has been filed, the judges shall forward to the commission the record of the proceeding on which the appeal is based.

(e) If a person against whom a fine has been assessed files an appeal of the ruling that assesses the fine, payment of the fine is not due until seven (7) days after a final determination or order has been entered which supports the imposition of such a sanction.

(f) A decision by the judges regarding a disqualification involving the running of the race that does not result in a ruling is final and may not be appealed.

*(Indiana Horse Racing Commission; [71 IAC 10-2-9](#); emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1200; emergency rule filed Aug 9, 1995, 10:30 a.m.: 18 IR 3415; emergency rule filed Feb 13, 1998, 10:00 a.m.: 21 IR 2427; emergency rule filed Feb 20, 2001, 10:08 a.m.: 24 IR 2110; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Feb 21, 2003, 4:15 p.m.: 26 IR 2387; emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]*

SECTION 37. [71 IAC 10-3-1](#) IS AMENDED TO READ AS FOLLOWS:

**[71 IAC 10-3-1](#) Initiation of proceedings**

**Authority:** [IC 4-31-3-9](#); [IC 4-31-3-13](#)

**Affected:** [IC 4-21.5-3-22](#); [IC 4-21.5-3-29](#); [IC 4-31](#)

Sec. 1. (a) A proceeding before the commission may be initiated by a person who timely files an appeal from a judge's ruling.

(b) The commission may in its discretion initiate a disciplinary action against any person under [IC 4-31](#). Such an action may be brought upon the recommendation of the executive director, by the commission on its own motion, or by the commission for the purpose of modifying or assessing penalties or sanctions, or both, in addition to any penalties or sanctions assessed by the judges. If the commission or the executive director brings an action under this section, such action is to be initiated pursuant to the provisions of [71 IAC 10-3-20](#) ~~and is not subject to the requirements contained in [71 IAC 10-2-9](#).~~ **section 20 of this rule.**

(c) The commission may institute a proceeding for the enforcement of a subpoena which is issued in support of its power to investigate licensees of the commission and/or any suspected violation of the pari-mutuel statutes or a rule adopted by the commission.

(d) In the event that the commission initiates a proceeding under ~~this section~~ **20 of this rule**, the issues **in that proceeding or** on any subsequent appeal shall be limited to those raised by the commission **or its designee**. In no way shall the ~~initiation of a proceeding by the commission~~ **issuance of a preliminary report** act as a waiver or otherwise extend the time limits for the appeal of a ~~decision~~ **ruling** set forth in this article.

*(Indiana Horse Racing Commission; [71 IAC 10-3-1](#); emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1201; emergency rule filed Jan 27, 1995, 3:30 p.m.: 18 IR 1506; errata filed Mar 23, 1995, 4:30 p.m.: 18 IR 2126; emergency rule filed Mar 25, 1996, 10:15 a.m.: 19 IR 2086; emergency rule filed Feb 12, 1998, 4:15 p.m.: 21 IR 2397; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]*

SECTION 38. [71 IAC 10-3-20](#) IS AMENDED TO READ AS FOLLOWS:

### [71 IAC 10-3-20](#) Administrative penalties

Authority: [IC 4-31-3-9](#)

Affected: [IC 4-31-13](#)

Sec. 20. (a) If the commission determines that a person regulated under the Act has violated the Act or a rule or order adopted under the Act in a manner that constitutes a ground for disciplinary action under the Act, the commission may assess an administrative penalty against that person as provided by this section.

(b) The commission delegates to the executive director the authority to prepare and issue preliminary reports pursuant to the Act. If, after examination of a possible violation and the facts relating to that possible violation, the executive director determines that a violation has occurred, the executive director shall issue a preliminary report that states the facts on which the conclusion is based, the fact that an administrative penalty is to be imposed, the amount to be assessed, and any other proposed sanction, including suspension, ~~additional suspension~~, or revocation. **Furthermore, when the judges have issued a ruling that a violation has occurred, the executive director may issue a preliminary report identifying the underlying ruling that serves as the basis for the preliminary report, the fact that an administrative penalty is to be imposed, the additional amount to be assessed, and any other proposed sanction including additional suspension or revocation.** The amount of the penalty may not exceed five thousand dollars (\$5,000) for each violation. Each day or occurrence that a violation continues may be considered a separate violation. In determining the administrative penalty, the executive director shall consider the seriousness of the violation.

(c) Not later than the tenth day after the date on which the executive director issues the preliminary report, the executive director shall provide a copy of the report to the person charged with the violation, together with a statement of the right of the person to a hearing relating to the alleged violation and the amount of the penalty. If possible, the executive director shall hand deliver the preliminary report. If hand delivery is not possible, the executive director shall mail the preliminary report to the person's last known address, as found in the commission's files, by regular mail and by certified mail, return receipt requested.

(d) Not later than the twentieth day after the date on which the executive director delivers or sends the preliminary report, the person charged may make a written request for a hearing or may remit the amount of the administrative penalty to the commission. Failure to request a hearing or to remit the amount of the administrative penalty within the period prescribed by this subsection results in a waiver of a right to a hearing on the administrative penalty as well as any right to judicial review. If the person charged requests a hearing, the hearing shall be conducted in the same manner as other hearings conducted by the commission pursuant to this article.

(e) If it is determined after the hearing that the person has committed the alleged violation, the administrative law judge shall give written notice to the person of the findings established by the hearing and the amount of the penalty and shall enter an order requiring the person to pay the penalty. If a party desires to appeal this order,

they shall do so pursuant to the provisions of section 15 of this rule.

(f) Not later than the fifteenth day after the date on which the above order is received from the administrative law judge, the person charged shall pay the administrative penalty in full or exercise the right to appeal. If a person exercises a right of appeal, the amount of the penalty is not required to be paid until the fifteenth day after the date on which all appeals have been exhausted and the commission's decision has been upheld.

*(Indiana Horse Racing Commission; [71 IAC 10-3-20](#); emergency rule filed Feb 10, 1994, 9:20 a.m.: 17 IR 1208; emergency rule filed Jan 27, 1995, 3:30 p.m.: 18 IR 1507; errata filed Mar 23, 1995, 4:30 p.m.: 18 IR 2126; readopted filed Oct 30, 2001, 11:50 a.m.: 25 IR 899; emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]*)

SECTION 39. [71 IAC 10-5](#) IS ADDED TO READ AS FOLLOWS:

#### **Rule 5. Appearance by Attorneys or Representatives**

*NOTE: Agency cited as Rule 4, which was renumbered by the Publisher as Rule 5.*

##### **[71 IAC 10-5-1](#) Eligibility to appear and scope of practice**

**Authority:** [IC 4-31-3-9](#); [IC 4-31-6-9](#)

**Affected:** [IC 4-21.5-3-15](#); [IC 4-31-5-1](#); [IC 4-31-6-6](#); [IC 4-31-13-1](#)

**Sec. 1. (a) No person shall be eligible to practice before the commission unless the person has appeared in accordance with this title. An individual may appear on his or her own behalf, a partnership may be represented by a partner, and a party may be represented by a representative in accordance with [IC 4-21.5-3-15](#).**

**(b) Practice before the commission shall include all matters before the commission, including, but not limited to, applications, licensing, and all other matters pertinent to the hearing or review, including, but not limited to, the preparation of pleadings and motions, settlement offers, subpoenas, depositions, oral arguments, presentation of the case, and other documents or material presented to the commission.**

**(c) Only individual attorneys may file appearances. Any attorney who has not filed an appearance may not address the hearing or review officer or sign pleadings or offers of settlement.**

**(d) All attorneys who appear in a representative capacity on behalf of a licensee, permit holder, subject of exclusion (under [IC 4-31-13-1](#) and [71 IAC 2-10-1](#)), or other person must file written notice of appearance setting forth the following:**

- (1) The name, address, and telephone number of the attorney.**
- (2) The name and address of the licensee, permit holder, subject of exclusion, or other person represented.**
- (3) An affirmative statement indicating that the attorney is licensed in Indiana and setting forth the attorney's number.**

**A representative of a licensee, permit holder, a subject of exclusion, or other person who is not an attorney must set forth the information requested in subdivisions (1) and (2).**

**(e) A member in good standing of the bar of the highest court of any state or of any United States District Court may, upon motion, be permitted to argue or conduct a hearing in whole or in part upon any condition the commission may impose.**

**(f) The commission may require an attorney or representative appearing before it to disclose the identity of the person the attorney or representative represents and to present proof that the attorney or representative is authorized to act on the client's behalf.**

**(g) An attorney may only withdraw his or her appearance upon written notice to the hearing officer.**

*(Indiana Horse Racing Commission; [71 IAC 10-5-1](#); emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.])*  
NOTE: Agency cited as [71 IAC 10-4-1](#), which was renumbered by the Publisher as [71 IAC 10-5-1](#).

### **[71 IAC 10-5-2](#) Suspension and revocation of ability to practice before commission**

Authority: [IC 4-31-3-9](#); [IC 4-31-6-9](#)

Affected: [IC 4-21.5-3-15](#); [IC 4-31-5-1](#); [IC 4-31-6-6](#); [IC 4-31-13-1](#)

**Sec. 2. (a) An attorney's ability to practice before the commission shall be automatically suspended without a hearing if the attorney's professional license is suspended or revoked.**

**(b) An attorney practicing before the commission may have his or her ability to appear suspended or revoked if, after a hearing, the commission finds the following:**

**(1) The attorney made a materially false or misleading statement in the attorney's written notice of appearance.**

**(2) The attorney willfully failed to exercise due diligence in the preparation or presentation of any motion, documents, or other matter related to the case filed with or presented to the review officer, hearing officer, or commission, or knowingly misrepresented a material fact to the review officer, hearing officer, or commission.**

**(3) The attorney willfully violated or aided and abetted another in the violation of any provision of the Act or this title.**

**(4) The attorney:**

**(A) does not possess the requisite qualifications or expertise to represent others before the commission;**

**(B) lacks character and integrity; or**

**(C) has engaged in unethical or improper conduct.**

**(5) For any other action or reason that the commission deems necessary to warrant suspension or revocation of an attorney's ability to practice before the commission.**

**(c) The commission may refer an attorney to the appropriate disciplinary commission or agency if the attorney engaged in any action listed in subsection (b).**

*(Indiana Horse Racing Commission; [71 IAC 10-5-2](#); emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.])*  
NOTE: Agency cited as [71 IAC 10-4-2](#), which was renumbered by the Publisher as [71 IAC 10-5-2](#).

### **[71 IAC 10-5-3](#) Reinstatement**

Authority: [IC 4-31-3-9](#); [IC 4-31-6-9](#)

Affected: [IC 4-21.5-3-15](#); [IC 4-31-5-1](#); [IC 4-31-6-6](#); [IC 4-31-13-1](#)

**Sec. 3. (a) An attorney whose ability to appear is suspended or revoked under section 2(a) of this rule shall automatically be reinstated to practice before the review officer, hearing officer, or commission at the time the attorney's professional license is reinstated.**

**(b) An attorney whose ability to appear is suspended or revoked under section 2 of this rule may be reinstated by the commission upon a showing of good cause. An applicant for reinstatement shall be afforded a hearing before the commission upon application. The commission may require that the applicant for reinstatement pay the reasonable costs of the proceeding.**

**(c) If the commission referred an attorney to a disciplinary commission or agency under section 2 of**

**this rule, the attorney shall not be reinstated to practice before the commission before any disciplinary action initiated as a result of the referral has been completed.**

*(Indiana Horse Racing Commission; [71 IAC 10-5-3](#); emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.])*  
NOTE: Agency cited as [71 IAC 10-4-3](#), which was renumbered by the Publisher as [71 IAC 10-5-3](#).

#### **[71 IAC 10-5-4](#) Effect of representation; service**

**Authority:** [IC 4-31-3-9](#); [IC 4-31-6-9](#)

**Affected:** [IC 4-21.5-3-1](#); [IC 4-21.5-3-15](#); [IC 4-31-5-1](#); [IC 4-31-6-6](#); [IC 4-31-13-1](#)

**Sec. 4. (a) A person represented before the commission by an attorney or representative under this rule shall be bound by the acts or omissions of the attorney or representative to the same extent as if the person had acted or failed to act personally.**

**(b) In any appearance by an attorney or representative at any hearing or meeting of the commission, the client is deemed to have waived all privileges with respect to any information in the possession of the attorney or representative, or any testimony by the attorney or representative except for privileges afforded by the constitution or laws of Indiana, the rules of the Indiana supreme court, or the constitution or laws of the United States, where applicable.**

**(c) Service shall be made in accordance with [IC 4-21.5-3-1](#).**

*(Indiana Horse Racing Commission; [71 IAC 10-5-4](#); emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.])*  
NOTE: Agency cited as [71 IAC 10-4-4](#), which was renumbered by the Publisher as [71 IAC 10-5-4](#).

#### **[71 IAC 10-5-5](#) Obligations of truthfulness and due diligence**

**Authority:** [IC 4-31-3-9](#); [IC 4-31-6-9](#)

**Affected:** [IC 4-21.5-3-15](#); [IC 4-31-5-1](#); [IC 4-31-6-6](#); [IC 4-31-13-1](#)

**Sec. 5. (a) Attorneys or representatives appearing before the review officer, hearing officer, or commission shall not be intentionally untruthful, nor withhold any information that the review officer, hearing officer, or commission is entitled to receive, nor interfere with any lawful effort by the commission to obtain such information.**

**(b) Attorneys or representatives shall exercise due diligence in preparing or assisting in the preparation of documents for submission to the review officer, hearing officer, or commission.**

**(c) An attorney or representative appearing under this rule has a continuing responsibility on behalf of the attorney's or representative's client to monitor the accuracy and completeness of information submitted to the commission in any matters pertaining to the attorney's or representative's appearance on behalf of the client. To the extent not in conflict with the attorney-client privilege, whenever, during the pendency of an action or matter, an attorney of record becomes aware that information furnished to the commission is no longer accurate and complete in any material respect, the attorney shall promptly supplement or correct the information.**

*(Indiana Horse Racing Commission; [71 IAC 10-5-5](#); emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.])*  
NOTE: Agency cited as [71 IAC 10-4-5](#), which was renumbered by the Publisher as [71 IAC 10-5-5](#).

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**[71 IAC 10-5-6](#) Knowledge of client's omission**

Authority: [IC 4-31-3-9](#); [IC 4-31-6-9](#)

Affected: [IC 4-21.5-3-15](#); [IC 4-31-5-1](#); [IC 4-31-6-6](#); [IC 4-31-13-1](#)

**Sec. 6. (a) An attorney or representative who knows that a client has not complied with the Act or this title, or that a client has made a material error in or a material omission in any information or testimony presented to the review officer, hearing officer, or commission, shall promptly advise his or her client of the fact of the noncompliance, error, or omission.**

**(b) To the extent not in conflict with the attorney-client privilege, the attorney shall advise the hearing officer, review officer, or commission of the noncompliance, error, or omission.**

*(Indiana Horse Racing Commission; [71 IAC 10-5-6](#); emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]*

*NOTE: Agency cited as [71 IAC 10-4-6](#), which was renumbered by the Publisher as [71 IAC 10-5-6](#).*

**[71 IAC 10-5-7](#) Certification of documents**

Authority: [IC 4-31-3-9](#); [IC 4-31-6-9](#)

Affected: [IC 4-21.5-3-15](#); [IC 4-31-5-1](#); [IC 4-31-6-6](#); [IC 4-31-13-1](#)

**Sec. 7. (a) Every pleading, motion, subpoena, settlement offer, brief, stipulation of fact, or other document prepared or filed on behalf of a client must be signed by the attorney or representative, and the signature shall constitute a certification that the document was prepared in conformity with the requirements of the Act and this title.**

**(b) An attorney or representative may not verify any document required to be verified by the petitioner.**

*(Indiana Horse Racing Commission; [71 IAC 10-5-7](#); emergency rule filed Mar 20, 2007, 1:43 p.m.: [20070404-IR-071070198ERA](#), eff Mar 16, 2007 [[IC 4-22-2-37.1](#) establishes the effectiveness of an emergency rule upon filing with the Publisher. LSA Document #07-198(E) was filed with the Publisher March 20, 2007.]*

*NOTE: Agency cited as [71 IAC 10-4-7](#), which was renumbered by the Publisher as [71 IAC 10-5-7](#).*

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