

NATIONAL COUNCIL OF LEGISLATORS FROM GAMING STATES
COMMITTEE ON PARI-MUTUELS
NAPA, CALIFORNIA
FRIDAY, JUNE 13, 2008
MINUTES

The Committee on Pari-Mutuels of the National Council of Legislators from Gaming States (NCLGS) met at the Napa Valley Hotel & Spa in Napa, California, on Friday, June 13, 2008, at 10:30 a.m.

Representative Tim Solobay from Pennsylvania, NCLGS Secretary, presided in the absence of Delaware Representative Vincent Lofink, Committee Chair.

Other members of the Committee present were:

Rep. Michael Caron, CT
Rep. Kevin Ryan, CT
Sen. Steven Geller, FL
Rep. Jim Waldman, FL
Rep. Arlen Siegfried, KS
Sen. Richard Lerblance, OK
Rep. Christopher Sainato, PA

Other legislators present were:

Rep. H. Mac Gipson, AL
Sen. Tom Harman, CA
Rep. Perry Thurston, FL
Rep. Brian Quirk, IA
Rep. Trent Van Haaften, IN
Rep. Charlie Hoffman, KY
Rep. Joni Jenkins, KY
Rep. Dennis Keene, KY
Rep. Darryl Owens, KY
Sen. Walter Michel, MS
Rep. Larry Miller, TN
Sen. Jerome Delvin, WA

Others present were:

Susan Nolan, Nolan Associates, NCLGS Executive Director
Nicholas Brozean, Nolan Associates, NCLGS Assistant Legislative Coordinator

MINUTES

The Committee voted unanimously to accept, as submitted, the minutes of its January 4, 2008, meeting in Scottsdale, Arizona.

SIMULCAST REVENUE SHARING ISSUES

Drew J. Couto, president of the Thoroughbred Owners of California, said advance deposit wagering (ADW) is the Internet and telephone wagering of the pari-mutuel industry and is one of its two growing areas.

Mr. Couto said there are three primary ADW companies. He said domestic ADW companies take ADW wagers from 43 states and that foreign ADW companies accept wagers from 50 states without regulation. He said California and Virginia are the only two states that have state laws addressing ADW and due to its distribution of revenues.

Mr. Couto said state regulation of ADW is consistent and presents a big problem for the pari-mutuel industry. He said out of all pari-mutuel revenue, ADW generates less than 50 percent of the revenue flows to the industry participants, including racetracks, horsemen (owners, trainers, and jockeys), and breeders. He said in some cases the figure is substantially lower than 50 percent.

Mr. Couto said, by way of explanation, that handle is the entire amount wagered on a race, or total wagered in the industry. He said take-out comes out of the handle and is the source of all revenues and license fees in the industry. He said host fees are payments to horsemen and racetracks that produce the races. He said a source market is the state that a bettor resides. He said source market fees are ADW payments to the local industry for accepting wagers for other tracks.

Mr. Couto said the definition of an ADW source market and subsequent fees are the biggest controversy. He said it is important for state legislators to devise legislation that properly defines source markets. He said California and Virginia properly define source markets to include the entire state. Mr. Couto said in California it does not matter where a bet is placed for money to get back into the industry.

Mr. Couto said in every state except California and Virginia, ADW companies have the liberty to define source markets as they see fit. He said typically, ADW companies define source markets as a 25 mile radius around a racetrack. He said ADW companies promise to compensate the track and horsemen for a wager placed by an individual living within 25 miles of the track. He said ADW companies pay local interests nothing outside of the 25 mile radius.

Mr. Couto said for example, a one dollar wager will have a 20 percent take-out. He said under current ADW practices about six percent is paid to the host track and out-of-state horsemen, which leaves 14 percent. He said roughly seven percent of a source market fee is split between the track and local horsemen when a bet is made within a 25 mile radius of a track. He said seven percent is left for the ADW company. He said outside of a source market, the host fee remains six percent and the ADW company keeps 14 percent.

Mr. Couto said in states where source markets are within a 25 mile track radius at least two thirds of the wagering is done outside of the source market. He said as ADW grows the percentage paid to the local tracks and horsemen is diminishing. He said roughly 58 percent of current ADW revenues go to ADW companies.

Mr. Couto said tracks that own ADW companies, such as Tracknet, obtain nearly 80 percent of ADW revenues. He said ADW companies benefit more than the pari-mutuel industry. He said he would encourage legislators to develop comprehensive and fair legislation to protect consumers and the industry, which also promotes fair commerce.

In response to a question from Ms. Nolan regarding NCLGS next steps with ADW, Mr. Couto said ADW model legislation would be an appropriate avenue of exploration for NCLGS.

WAGERING SECURITY AND MEDICATION INITIATIVES

Ken Kirchner, president of Falkirk International, said the Racing, Medication, and Testing Consortium (RMTC) led by Dr. Scot Waterman had made outstanding progress in developing model rules that have been adopted in a majority of states.

Mr. Kirchner said the use of anabolic steroids have become increasingly controversial over the years. He said RMTC model rules for androgenic-anabolic steroids have gone through the adoption process in ten out of the 40 states that have a horse or harness racing commission.

Mr. Kirchner said, after witnessing the Triple Crown this year, many individuals have come to the realization that racing horses are given steroids on a regular basis and that it is still legal in many states. He said a national policy is necessary for anabolic steroids and Congress is beginning to examine the connection between medication and breakdowns.

Mr. Kirchner said People for the Ethical Treatment of Animals (PETA) and other groups have spoken out against horse racing and want to make it illegal. He said states must adopt national policy in order to ensure the industry maintains regulation and integrity.

Mr. Kirchner said Ed Martin of the Association of Racing Commissioners International (RCI) is leading an effort to provide real-time tracking of wagers. He said the Thoroughbred Racing and Protective Bureau (TRPB) is increasing their efforts to monitor offshore wagers and wagering companies, particularly the rebate houses.

Mr. Kirchner said the totalizator companies are the weak links in wagering security. He said totalizator companies operate with annotated and old programming systems that lack internal controls. He said bettors are at a loss from faulty wagers and improper wagering security. He said state racing commissions need to ensure that additional scrutiny, licensing, and activity requirements are set for totalizator companies.

PROS AND CONS OF SYNTHETIC TRACK SURFACES

Dr. Rick M. Arthur, equine medical director of the California Horse Racing Board (CHRB), said the number of thoroughbred fatalities is surprising. He said California saw a big jump in horse fatalities between 2004 and 2005. He said the Barbaro and Eight Belles tragedies put a highlight on fatalities.

Dr. Arthur said a study the CHRB did in conjunction with Colorado State University evidenced a high attrition rate and that the majority of horses training to become racing horses are not able to

keep up with the workouts. He said the pari-mutuel industry loses about three percent of horses to injuries and retirement each month, which costs over \$100 million each year.

Dr. Arthur said between 2004 and 2005 Turfway Park put in a polytrack synthetic surface because of a bad fatality record. He said Turfway Park saw an 85 percent reduction in fatalities after implementing polytrack. He said CHRB now mandates the implementation of a polymer synthetic type racing surface based on the experiences at Turfway Park.

Dr. Arthur said synthetic surfaces are very similar and consist of sand, fiber, and wax or polymer. He said there are several manufacturers of synthetic racing surfaces. He said installation of synthetic track surfaces requires the reengineering of the base, setting up a drainage system, and laying of stone, then porous macadam, and lastly the polytrack surface material.

Dr. Arthur said after Del Mar's installation of polytrack, the field size grew and handle increased about ten percent for each average addition of half a horse per race, which is a significant increase in revenue for the track and state. He said also as a result, racing fatalities have shrunk from 3.44 per 1000 starts to 0.81 per 1000 starts.

Dr. Arthur said racing fatalities fell by almost 60 percent in California between 2004 and 2007 since switching from dirt to synthetic surfaces. He said overall in California, racing fatalities have gone down, from 3.19 per 1000 starts to 1.37 per 1000 starts. He said in California training fatalities still account for about a third of muscular fatalities.

Dr. Arthur said testing indicates that synthetic track surfaces reduce the peak forces on horse hoofs. He said, though, that synthetic surfaces are a new technology, expensive to install, and difficult to maintain. He said there appears to be anecdotal evidence that horse rear-end problems have grown on synthetic surfaces.

Dr. Arthur said synthetic track surfaces require a lot of upkeep and can cause more racing fatalities if the track does not maintain the manufacturer's recommendations.

Dr. Arthur said ankle injuries are the most common cause of racing fatalities. He said polytrack surfaces should reduce ankle injuries on racetracks. He said the Grayson/Jockey Club Research Foundation made several recommendations for reducing racing fatalities, and track surfaces were one of them.

GREYHOUND RACING IN THE STATES

Tracy Wildey, vice president of the National Greyhound Association, said the greyhound racing industry continues its quest for slot machines and racetracks. She said efforts are being made to simulcast races, but racinos are thought to be salvation for the pari-mutuel industry.

Ms. Wildey said the passage of a referendum in Dade County, Florida this year should add slot machines to its pari-mutuel facilities in early 2009.

Ms. Wildey said Kansas is awaiting a decision from the Supreme Court on the constitutionality of state owned and operated casinos. She said Kansas is continuing to award casino licenses in the designated counties.

Ms. Wildey said Florida, New Hampshire, and Texas were unsuccessful in passing new greyhound racing legislation this year. She said Iowa, West Virginia, Rhode Island, Arkansas, Kansas, Alabama, and the southern part Florida currently have legislation allowing slot machines at their venues.

Ms. Wildey said greyhound racing provides over 10,000 jobs to individuals and contributes millions of tax dollars to the states.

Ms. Wildey said Arkansas, Iowa, Kansas, and West Virginia have implemented breeders' awards while installing slot machines, which increased revenues and agricultural business exponentially. She said greyhound racing is seeking a level playing field within the gaming industry and fair Internet wagering legislation.

Ms. Wildey said the rising costs of operating kennels and the decline in purses is causing several greyhound tracks to close. She said Wichita Greyhound Park in Kansas closed because of a drop in gaming revenue, but would reopen if a slots bill is passed. She said in Colorado, Cloverleaf Dog Track closed its operations and sold the property for retail and Mile High Racetrack is also on the verge of closing.

Ms. Wildey said breedings, whelpings, and individual registrations are continuing to decline, which is bringing down purses. She said the prices paid for racing greyhounds went up, the average paid per greyhound is now \$7,500, and the top selling greyhound sold for \$42,000. She said the spring meet auction grossed over \$1.3 million, which is the second largest spring meet sale in greyhound racing.

Ms. Wildey said greyhound welfare and racetrack surfaces continue to come under scrutiny from PETA and GREY2K. She said racetracks and states are working to better racing surfaces. She said since the implementation of Greyhound Health Research & Information Network (GHRIN) there have been no significant quarantines based on kennel outbreaks.

Ms. Wildey said the greyhound industry has close to a 100 percent adoption rate. She said the National Greyhound Association and the Track Operators Association have partnered with the American Greyhound Council to help fund adoption programs.

In response to a question by Sen. Geller regarding joint efforts by the pari-mutuel industry to address issues raised by PETA and GREY2K, Ms. Wildey said steps have been taken by the greyhound and horse racing industries to work together on animal welfare issues.

INITIATIVES RELATED TO CONTROVERSIAL VETERINARY PRACTICES

SHOCKWAVE THERAPY

Dr. Arthur said shockwave therapy puts kinetic energy into tissue by either radial or focused pressure waves. He said shockwave therapy concentrates on a specific location and is thought to stimulate healing at the cellular level.

Dr. Arthur said concerns exist that shockwave therapy causes transitory analgesia, which means the leg is blocked and loses its sense of feeling.

Dr. Arthur said veterinary practice permits the use of shockwave therapy machines for osteoarthritis, navicular disease, tendonitis, suspensory desmitis, back pain, and aid in wound healing. He said human shockwave therapy treatment for heel spurs and tennis elbows have FDA approval.

Dr. Arthur said possible benefits of shockwave therapy include tissue healing, less inflammation, more rapid recovery, and pain reduction. He said concerns include analgesia, reduction in healing if the treatment is improperly done, and necessary time and cost of treatment.

Dr. Arthur said in California, shockwave therapy machines must be used at racetrack facility hospitals or chosen locations and cannot be taken into stable areas. He said horses undergoing treatment must be identified, reported to the CHRB, and put onto a veterinarian's list for ten days even though the analgesia only lasts 48 to 72 hours.

POSTERIOR DIGITAL NEURECTOMY

Dr. Arthur said heel-nerving or posterior digital neurectomy (PDN) is a well-known technique and is the most common surgery done internationally on horses besides castration. He said the surgery removes a branch of the digital nerve and the sensation from the back of a horse's heel. He said the surgery is most similar to a human root canal and is taught at every veterinary school around the world.

Dr. Arthur said racehorses with fractures of the wings of the third phalanges, navicular disease, and other chronic conditions of the posterior foot are treated with PDN procedures. He said PDN is much less frequently used today in sports horses, due to advances in diagnostics, medications, and therapeutic shoeing.

Dr. Arthur said the terms "heel-nerved" and "nerved" are commonly used to refer to PDN and give the treatment a bad perception.

Dr. Arthur said 35 of the 37 racing states, the American Quarter Horse Association (AQHA) and the United States Equestrian Foundation (USEF) do not prohibit PDN. He said the Fédération Equestre Internationale (FEI) and many international racing jurisdictions do prohibit PDN.

Dr. Arthur said California has particular requirements for PDN, including notations on exam sheets and examinations by veterinarians that allow horses to run, which must be permanently marked on their papers. He said a list of heel-nerved horses is posted in the Jockey's room. He said PDN is not common in California.

Dr. Arthur said PDN prohibition is unenforceable. He said any effort to prohibit posterior digital neurectomies in race horses should proceed as a national effort.

Dr. Arthur said surgical neurectomy is only one method of neurectomizing the posterior digital nerve.

Dr. Arthur said an amendment to CHRB Rule 1850 allows horses to run that had a PDN done prior to October 1, 2008.

ANABOLIC STEROIDS

Dr. Arthur said anabolic steroids are the most controversial issue today and that most of the general public believes anabolic steroids are regulated in horse racing. He said anabolic steroids are a group of hormones that mimic the male hormone testosterone.

Dr. Arthur said the RMTC and the Grayson/Jockey Club Welfare and Safety of the Racehorse Summit, as well as several other racing organizations, support regulation of anabolic steroids in American horse racing and urged adoption of appropriate rules by year-end.

Dr. Arthur said testosterone, nandrolone, and boldenone are endogenous to horses. He said all androgenic-anabolic steroids are prohibited, except testosterone, nandrolone, boldenone, and stanozolol. He said U.S. regulations for steroids are similar to those of Australia, which maintain state regulation.

Dr. Arthur said regulators and racing chemists have a major concern regarding adequate funding to implement and properly enforce an anabolic steroid testing program. He said Pennsylvania, a leader in anabolic steroid testing, has a well-funded program.

Dr. Arthur said that California initiated the necessary regulatory steps in Spring 2007 and that the last step for urine testing should be completed by September 2008. He said the 2008 Breeder's Cup Championship races at Oak Tree at Santa Anita, California, will be the first time the event will be anabolic steroid-free.

Dr. Arthur said the pari-mutuel industry is moving forward and will benefit from anabolic steroid regulation.

In response to a question from Sen. Lerblance regarding the use of anabolic steroids during training, Dr. Arthur said horses on anabolic steroids are able to train harder, but suffer from more catastrophic injuries. He said information on the advantages of anabolic steroid use before races is contradictory.

ADJOURNMENT

There being no further business, the meeting adjourned at 11:45 a.m.

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